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In the Matter of Interest Arbitration

Between

SERB Case No. 10-MED-04-0475

FOP-OLC

Before: Harry Graham

And

Mahoning County Sheriff's Office

*Issued 10-30-10*

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**APPEARANCES:** For FOP-OLC:

Chuck Wilson  
Staff Representative  
FOP-OLC  
2721 Manchester Rd.  
Akron, OH 44139

For Mahoning County Sheriff's Office:

Jonathan Downes  
Downes, Fishel, Hass, Kim  
400 South Fifth St., Suite 200  
Columbus, OH 43215

**INTRODUCTION:** Pursuant to the procedures of the Ohio State Employment Relations Board a hearing was held in this matter before Harry Graham. At that hearing the parties were provided complete opportunity to present testimony and evidence. Prior to the hearing two days of mediation were had. It was clear to all that these were complicated and difficult negotiations. This was initially a Factfinding procedure. As a Factfinding hearing loomed the parties realized that such might represent an exercise in futility. Thus, the parties agreed to convert the factfinding proceeding to an interest arbitration proceeding. They also agreed to alter the interest arbitration (Conciliation) procedure specified in ORC 4117 from a last-best-offer process to a conventional

interest arbitration. That is, the arbitrator is free to make an award at variance with the positions of the parties at hearing. Appropriate documentation to this effect was filed with the Ohio State Employment Relations Board. It is also the case that the parties agreed to waive the taking of verbatim written record of the hearing held on October 8, 2010.

As is common in negotiations involving Sheriff's Offices in Ohio there are multiple bargaining units negotiating. Typically the largest unit is the "Blue" bargaining unit composed of non-supervisory personnel. The "Gold" unit contains people with supervisory responsibility. This proceeding involves the Blue bargaining unit. Unless there are matters specific to one or the other bargaining unit the terms agreed-upon by one are normally extended to the other. There is pattern bargaining.

It is the case that Mahoning County is in poor financial health. Population in the first decade of the current century has declined approximately eight percent. (8.0%). Median household income is below the average of the State and the Nation. Median income in Mahoning County represents 86% of the median household income of Ohio and 76% of the national median income. The unemployment rate of Mahoning County has remained persistently high. In August of this year it was 11.1% which represented an improvement from the 14.4% recorded in March of 2010. Unfortunately, Mahoning County has the highest proportion of population on welfare of any county in Ohio. Revenues available to the County have been stagnant or declining. Thus, from 2007 to 2009 sales and use tax revenues dropped 8.6%. The most recent Certificate of Estimated Resources issued by the Mahoning County Budget Commission in August, 2010 revised funds available to the General Fund downward by approximately

\$4,000,000. A further decline is projected for 2011. It is the case that the County has been receiving funds as payment for housing prisoners in the jail. Those receipts have declined from over \$4,000,000 in 2007 to \$1,000,000 this year. There is no possible conclusion other than the finances of the County are poor. It is against that dismal background that negotiations for the Sheriff's Office came to be conducted. Those negotiations started in April, 2010. My first meeting with the parties was in August, 2010. Prior to hearing on this matter two meetings were conducted. All concerned recognized the difficulties attendant upon this situation. To bring closure to this round of negotiations the parties agreed to interest arbitration.

**ISSUES:**

**FREEZE:** In the course of negotiations the Employer proposed a "freeze" on various contractual benefits. These include sick leave bonus (Section 8.10), use of Accumulated Time (A/T), Vacation Time or Personal Time in lieu use of sick time, (Section 8.11), and use of bonus pay for compensatory time. (Section 8.14). The Employer also proposes the "freeze" be extended to other articles of the Agreement. These include overtime, holidays, vacations, clothing allowance, longevity, compensation and hazardous duty pay. The language proposed by the Employer reads:

For the period of July 1, 2010, until at least December 31, 2011, subject to the reopening of negotiations regarding this provision, the provisions of this section will be "suspended" or "frozen." That is, there will be no payments made to employees under the provisions of this section from July 1, 2010 through December 31, 2011 and any payments thereafter will be subject to the negotiations of the reopener provisions for negotiations of this Agreement. that is, the provisions of this section shall not apply nor be utilized during the period of July 1, 2010 through December 31, 2011, and the provisions of this section will be subject to the negotiations of the "reopener" provision for this section and other sections of this Agreement suspended subject to the "reopener" provision of this 2010 to 2013 Agreement, Appendix B.

The proposal of the Employer for a freeze on all payments itemized above is awarded. Included in this award is the proposal of the Employer captioned "Appendix B" for reopening negotiations.

**SENIORITY:** Should it be the case that members of the "Gold" bargaining unit are subject to layoff they should return to the "Blue" bargaining unit with "Blue" bargaining unit seniority.


**WAGES:** The wage scale proposed by the Union should take effect the first pay period of 2012.

Integral to this award is the following language:

Should the Employer, the Mahoning County Sheriff's Office, grant another Sheriff's Office Bargaining Unit economic increases or contract provisions favorable to that bargaining unit, such provisions shall be incorporated fully and completely into the Agreement applicable to this Bargaining Unit.

Jurisdiction is retained for sixty (60) calendar days from the date of this award.

Signed and dated this 30<sup>th</sup> day of October, 2010 at Solon, OH.

  
\_\_\_\_\_  
Harry Graham  
Arbitrator

## APPENDIX B

### FROZEN OR SUSPENDED PROVISIONS AND REOPENER NEGOTIATIONS

During the course of negotiations and the impasse proceedings for this Agreement of July 1, 2010 to June 30, 2013, certain provisions of the Articles listed below are to be "frozen" or "suspended" for the period of July 1, 2010 through December 31, 2011. These provisions are identified individually in the body of the Agreement. The provisions "frozen" or "suspended" will remain "frozen" or "suspended" until December 31, 2011, subject to the following "reopener" provision which will include the period of negotiations and/or impasse proceedings (if utilized) for these provisions. That is, the provisions of the Agreement identified as "frozen" or "suspended" for the period of July 1, 2010 through December 31, 2011, will remain "frozen" or "suspended" until the parties reach agreement regarding these provisions or agreement is reached in the negotiations during "reopener" negotiations or a conciliator renders a decision regarding each of the "frozen" or "suspended" provisions.

The Articles which contain "frozen" or "suspended" provisions include:

Article 8	Sick Leave
Article 19	Overtime
Article 20	Holidays
Article 21	Vacations
Article 22	Clothing Allowance
Article 23	Longevity
Article 35	Compensation
Article 41	Hazardous Duty Pay

The provisions "frozen" or "suspended" shall continue as "frozen" or "suspended" until at least December 31, 2011, or until the parties mutually agree to modify one or more of the "frozen" or "suspended" provisions, or the issue is resolved through the impasse procedures.

The parties also mutually agree to reopen for negotiations any or all of the "frozen" or "suspended" provisions by one party or the other serving a Notice to Negotiate on the other party. The period for negotiations for the reopener may commence October 1, 2011.

The parties agree that the provisions "frozen" or "suspended" and negotiated pursuant to the provisions of this Appendix to the 2010-2013 Agreement shall be subject to the impasse proceedings, including fact-finding and conciliation, or contained in the Ohio Collective Bargaining Act, Ohio Revised Code Chapter 4117.

The parties agree that during the period of negotiations regarding the "frozen" or "suspended" provisions and any subsequent impasse proceedings that these provisions will remain and continue to be "frozen" or "suspended" during the period of negotiations and/or impasse proceedings subject to change only if mutually agreed or amended pursuant to the impasse proceedings.

FOR THE UNION:

FOR THE EMPLOYER:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date Tentatively Agreed: \_\_\_\_\_

Mahoning County Sheriff's Office  
FOP/OLC Blue Unit

Estimated Economic Impact of Conciliator's Award 10-30-10  
"Suspended" or "Frozen" items from July 1, 2010 to December 31, 2011

Estimates based on prior experience of economic items

Section		Total Reduction
8.10	<b>Sick Leave Bonus</b> * \$550 per quarter, per eligible employee * Average cost \$135,000 per quarter * Total 6 quarters suspended x \$135,000	\$810,000.00
8.11	<b>Use of A.T. for Sick Leave</b> * Eliminates ability of employees to use A.T. to call off sick * Cost reduction per reduced overtime	To be determined
19.07	<b>Cash Conversion of Compensatory Time</b>	
21.10	<b>Cash Conversation of Vacation Leave</b> * Previous annual cost (both) \$300,000.00 * Two (2) years suspended x \$300,000.00	\$600,000.00
20.02	<b>Holiday Premium Pay</b> * Reduce premium rate from 2 ½ x 1 ½ x * Holiday premium previous cost \$20,000 per holiday * 14 holidays until December 31, 2012 * Previous reduced from 1 ½ x to ½ x * Two-thirds (2/3) reduction (suspension) \$13,400 * Cost reduction 2/3 x \$20,000 x holidays	\$600,000.00
22.01	<b>Clothing Allowance</b> * Semi-annual \$500.00 per employee * Each payment average cost \$145,000 * 3 payments suspended x \$145,000	\$435,000.00
23.01	<b>Longevity Pay</b> * Sliding scale, annual payments * Previous annual cost \$300,000.00 * Two (2) payments suspended x \$300,000.00	\$600,000.00
41.01	<b>Hazard Duty Pay</b> * 1% of annual payroll * Annual payroll of \$9 mil. * One year suspended 1% of 9 mil.	\$600,000.00

Mahoning County Sheriff's Office  
 FOP/OLC Blue Unit  
 Estimated Economic Impact of Conciliator's Award 10-30-10  
 "Suspended" or "Frozen" items from July 1, 2010 to December 31, 2011  
 Estimates based on prior experience of economic items

<u>Cost Reductions</u>	<u>2010</u>	<u>2011</u>	<u>TOTAL</u>
Sick Leave Bonus	\$270,000	\$540,000	\$810,000
Cash Conversion Vac. + Comp. time	\$300,000	\$300,000	\$600,000
Clothing Allowance	\$145,000	\$290,000	\$435,000
Holiday Premium Pay	\$40,200	\$147,000	\$187,600
Longevity Pay	\$300,000	\$300,000	\$600,000
Hazard Duty Pay	\$15,000	\$90,000	\$105,000
Estimated Total	\$1,070,200	\$1,667,000	\$2,737,200

These estimates are based on prior experience for all employees in the Sheriff's Office who are eligible for the benefits.

The estimated cost reductions for the various economic items "suspended" or "frozen" do not include the cost reductions resulting from payroll costs of:

PERS-LE:	21%	(Employer share and 3% of employee share)
Medicare:	1.45%	
Workers' Comp.:	<u>1.5% estimate</u>	
<b>TOTAL</b>	<b>24% approximate</b>	



Mahoning County Sheriff's Office  
FOP/OLC Blue Unit  
Summary of Conciliator's Award 10-30-10

Summary

The listing below of the issues awarded by the Conciliator are for the period of July 1, 2010 through December 31, 2011. These provisions are subject to a reopener provisions for the last 18 months of the contract, to expire on June 30, 2012.

The estimated cost reductions for the various economic items suspended do not include the cost reductions resulting from payroll costs of PERS-LE (at 21%), Medicare (at 1.45%) and Workers' Compensation (approx. 1.5%) or total approximately 24%.

A List of the cost reductions is provided at the end of this Summary.

<u>Section</u>	<u>Issue and Conciliator's Award, Impact</u>
55.01	<u>Duration:</u> The contract period will be from July 1, 2010 through June 30, 2012. The impact of all items awarded as "suspended" or "frozen" will be effective from July 1, 2010, though December 31, 2011, with reopener negotiations for these items on October 1, 2011.
App. B	"Frozen" or "suspended" provisions, awarded by Conciliator, for July 1, 2010 through December 30, 2011 listed with reopener negotiations of these items to commence October 1, 2011.
App. A	<u>Wage Scale:</u> Conciliator awarded Union wage scale, which reflects current deputy classifications and wage rates, to be effective the first pay period in 2012. This represents a "freeze" of all wage rates for 18 months.
8.10	<u>Sick Leave Bonus:</u> Conciliator awarded a "suspension" or "freeze" of six quarterly bonus payments of \$550 each or total of \$3,300.00 for each employee in the bargaining unit. The estimated total of cost reductions for freeze of sick leave bonus is \$135,000 per quarter or \$810,000.00 for six quarters.
8.11	<u>Use of A.T. (accumulated time) on Demand.</u> This provision is "suspended" or "frozen" for the period of July 1, 2010 through December 31, 2011. This provision previously allowed employees to use A.T. (accumulated time) when calling off for duty. The affect of the "suspension" or "freezing" of this provision means that employees may <u>not</u> use A.T. to call off and must request sick leave if calling off for an illness. The savings from the reduced use of A.T. will be in the reduction of overtime for filling vacancies on a shift which previously resulted from employees calling off on A.T. The savings are yet unknown but will be quantifiable from a reduction of the use of overtime caused by the use of A.T.
8.14	<u>Conversion of Sick Leave Bonuses.</u> This provision is "suspended" or "frozen" for the period of July 1, 2010 through December 31, 2011. This provision is directly related to the "suspension" or "freezing" of the sick leave bonus, section 8.10, and will result in <u>no</u> additional compensatory time (or A.T.) being added to an

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employee's bank of compensatory time. The savings from this "suspension" or "freeze" will result in cost savings with reduced bank of compensatory time, which should result from fewer vacancies on a shift required to be filled when an employee would have utilized compensatory time.

- 16.04      Displacement. This provision clarifies that employees laid off from the Gold/  
16.07      Supervisors bargaining unit will be able to displace to positions in the  
Blue/Deputies unit in the event of a layoff. When the Gold unit employees  
displace to the Blue unit the Gold unit they will be paid at the rate of pay provided  
in the Blue unit.
- 19.07      Payment of Compensatory Time. This provision is "suspended" or "frozen" for  
2010 and 2011 which annually provided for conversion up to 200 hours of  
accumulated, unused compensatory time. Due to the "suspension" or "freeze" in  
section 8.14 there will be fewer hours subject to the annual conversion. The cost  
reduction from this provision and the vacation leave conversions (section 21.07  
and 21.10), based on previous conversions, is estimated at approximately  
\$300,000.00 annually for a total cost reduction of \$600,000.00 in 2010 and 2011.
- 20.02      Holiday Premium Pay. The "suspension" or "freeze" of this provision reduces the  
payments made to employees who actually work on a holiday from  $2\frac{1}{2}$  x to  $1\frac{1}{2}$  x  
the employee's rate of pay. This "suspension" or "freeze" for all holidays from  
July 1, 2010 through December 31, 2011, will result in an estimated cost  
reduction of \$13,400 per holiday; for 14 holidays from October 30, 2010 through  
December 31, 2012, for a total of \$187,600.00.
- 21.07      Vacation Leave Carryover. The "suspension" or "freeze" of this provision caps  
the amount of vacation leave an employee may carry over from one calendar year  
to the next at 200 hours, with a grandfather provision for those employees who (as  
of July 1, 2010) have balances greater than 200 hours capped at that amount. All  
vacation leave hours in excess of the cap will be lost, which is consistent with  
civil service law provisions.
- 21.10      Vacation Leave Conversion. The "suspension" or "freeze" of this provision for  
the period of July 1, 2010, through December 31, 2011, is combined with the  
"suspension" or "freeze" of the sick leave bonus conversion (section 19.07). As  
noted above, the cost reduction resulting of the "suspension" or "freeze" of these  
two provisions (sections 19.07 and 21.07) is estimated at approximately  
\$300,000.00 annually for a total of \$600,000.00 total cost reductions in 2010 and  
2011.
- 22.01      Clothing Allowance. The "suspension" or "freeze" of this provision for the period  
of July 1, 2010 through December 31, 2011, eliminates the payments of \$500.00  
semi-annually to employees or a total of \$1,500.00 per employee. This  
"suspension" or "freeze" of this provision is estimated at a cost reduction of

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Summary of Conciliator's Award 10-30-10

approximately \$145,000.00 per semi-annual payment for a total cost reduction in the period July 1, 2010 through December 31, 2011 of approximately \$435,000.00.

- 23.01      Longevity Pay. The "suspension" or "freeze" of this provision from July 1, 2010 through December 31, 2011, results in the "suspension" or "freeze" of the annual longevity pay payments for 2010 and 2011. The estimated cost reductions for the "suspension" or "freeze" of longevity pay payments is estimated to be \$300,000.00 per payment with a total of \$600,000.00 for the 2010 and 2011 payments.
- 35.01      Compensation and Wage Scales.      The "suspension" or "freeze" means that  
App. A      employees will remain at the wage rate (hourly) they received on July 1, 2010, and will remain at that rate through December 31, 2011. The new wage scale (Appendix A) reflects the rates employees received on July 1, 2010. This provision is not subject to renegotiation until October 1, 2011 and no new rates may be implemented until January 2012. The result of this portion of the Conciliator's award is that all employees will remain at their current wage rate for an additional 18 months, from July 1, 2010 through December 31, 2011, subject to renegotiation.
- 41.01      Hazard Duty Pay. The "suspension" or "freeze" of this provision for the period of July 1, 2010 through December 31, 2011 means that employees will not receive the 1% additional pay prorated to the employee's rate of pay. The estimated cost reduction annual is approximately \$95,000.00.
- 55.01      Reopener.      This provision, with the inclusion of the language in Appendix,  
App. B      subjects all provisions "suspended" or "frozen" will remain "suspended" or "frozen" from July 1, 2010 through December 31, 2011, will be subject to negotiations beginning in October 2011 which will be renegotiated taking into consideration the economic conditions of the Mahoning County General Fund and the State funding.
- 55.02      Duration. Except for the provisions subject to renegotiations, and as listed in Appendix B, will remain in effect for the three year period of July 1, 2010 through June 20, 2012.