STATE OF OHIO
BEFORE THE STATE EMPLOYMENT RELATIONS BOARD

In the Matter of the Fact-Finding Between

TEAMSTERS LOCAL NO. 957,
GENERAL TRUCK DRIVERS, WAREHOUSEMEN,
HELPERS, SALES AND SERVICE, AND
CASINO EMPLOYEES,

CASE NO. 2015-MED-07-0621
Fact-Finder: Jerry B. Sellman
Date of Report: March 25, 2016

Employee Organization

and

MONTGOMERY COUNTY ENGINEER,

The Employer

FACT FINDERS REPORT AND RECOMMENDATION

APPEARANCES:

FOR THE EMPLOYEE ORGANIZATION:

John R. Doll, Esq. – Attorney with Doll, Jansen & Ford representing Teamsters Local 957, General Truck Drivers, Warehousemen, Helpers, Sales and Service, and Casino Employees
Darrell Paschal - Vice President, Business Representative, Teamsters Local 957, General Truck Drivers, Warehousemen, Helpers, Sales and Service, and Casino Employees

FOR THE EMPLOYER:

Brian D. Butcher - Director/Regional Manager, Clemans, Neon & Associates, Inc., representing the Montgomery County Engineer

I. INTRODUCTION

This matter concerns a Fact-finding proceeding between the Montgomery County Engineer (hereinafter referred to as the "Employer" or the "Montgomery County Engineer") and Teamsters Local 957, General Truck Drivers, Warehousemen, Helpers, Sales and Service, and Casino Employees, (hereinafter referred to as the "Teamsters Local 957" or the "Union"). The State Employment Relations Board (SERB) duly appointed the undersigned as Fact-finder on February 23, 2016, to conduct a Fact-finding hearing. A Fact-finding hearing was held on March 3, 2016, at which time the Fact-finder invited the parties to enter into mediation pursuant to the Ohio Administrative Code and the Policies of SERB in an effort to find consensus on all remaining disputed provisions of the new Collective Bargaining Agreement. The Parties engaged in mediation and were able to mutually agree on a couple of additional Articles, but the inability to mutually agree on a variety of other issues prevented resolution of a global agreement on all issues

The open issues identified and discussed by both parties included:

Article 6 – Discipline
Article 7 – Seniority and Job Assignment
Article 8 – Snow and Ice Control
Article 10 – Temporary Assignments
Article 14 – Overtime Pay
Article 15 – Hours of Work
Article 18 - Uniforms
Article 19 – Group Insurance
Article 20 – Wages
Article 22 - Duration

The Fact-finding proceeding was conducted pursuant to the Ohio Collective Bargaining Law as well as the rules and regulations of the State Employment Relations Board, as amended.

During the Fact-finding proceeding, this Fact-finder provided the parties the opportunity to present arguments and evidence in support of their respective positions on the issues remaining for this Fact-finder's consideration. The Parties waived the taking of a transcript.

In making the recommendations in this report, consideration was given to all reliable evidence presented relevant to the outstanding issues before him and consideration was given to the following criteria listed in Rule 4117-9-05 (K) of the State Employment Relations Board:

(1) Past collectively bargained 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 the determination of issues submitted to mutually agreed-upon dispute settlement procedures in public service or in private employment.

II. BACKGROUND

Teamsters Local 957 represents bargaining unit members with the Montgomery County Engineer consisting of approximately thirty-six (36) bargaining unit employees who work in four (4) separate departments - Road Department, Bridge Department, Traffic Department and Garage Department. Local 957 has represented the bargaining unit since the early 1990s following a transfer of the bargaining unit from Teamsters Local Union No. 450, which began representing the bargaining unit employees following the passage of the State Employment Relations Act. Local 957 and the Employer have negotiated successive collective bargaining

agreements since the early 1990s with the most recent collective bargaining agreement being effective from January 1, 2013, through December 31, 2015.

The Montgomery County Engineer's Office provides road repair and bridge repair services on the Montgomery County roads and bridges. Major replacement of the roads and bridges are contracted out through a competitive bidding process. The Montgomery County Engineer also provides repair to traffic signs and replaces those traffic signs when necessary and employs vehicle mechanics and building maintenance employees.

Most of the revenue for the Montgomery County Engineer comes from the State Gasoline Tax and other similar sources. The Montgomery County Engineer receives a small portion of its revenue from the Montgomery County Commissioners

The current Collective Bargaining Agreement expired on December 31, 2015, and Extension Agreements have been executed by the parties to allow for Fact-finding on unresolved issues. The parties engaged in seven (7) negotiation sessions, the last two (2) negotiation sessions with Mediators appointed by SERB. The first negotiation session occurred on October 26, 2015, and the last negotiation session occurred on January 25, 2016. On the first day of negotiations, the Employer presented proposals on twelve (12) of the twenty-two (22) articles in the collective bargaining agreement with major revisions to many of the articles. At the conclusion of the bargaining session on January 25, 2016, the parties tentatively agreed to language in all but ten (10) negotiated articles in the new proposed Collective Bargaining Agreement prior to the Fact-finding Hearing.

The following recommendations of the Fact-finder on the remaining disputed issues are based on his consideration of an overall solution to the positions and concerns of the parties as opposed to an independent analysis of each issue unrelated to the other.

The Employer opines that, in additional to proposed substantive changes to the CBA, the CBA is poorly laid out and difficult to navigate. As a result, it seeks to reorganize the CBA by re-writing several sections within several Articles and moving several sections within a couple of Articles to new Articles. It appears that most of the "movement" would occur by creating eleven (11) new Articles from the substantive provisions of the current Article 7, Seniority and Job Assignment, wherein multiple issues (proposed to be addressed in a separate subject matter articles) are covered. The "reorganization" does not substantively change the parties' CBA, and the Fact-finder would agree that the proposed "reorganization" does better organize a CBA that has had numerous provisions added over the years. The Fact-finder would agree with the Union, however, that the substantive issues should be addressed before unresolved issues are moved to new Articles. The Union has no particular objection to moving several sections to new Articles, but certainly is more focused on the impact of the Employer's proposed changes. In the analysis below, the disputed substantive issues are addressed. Once these unresolved issues are resolved, the parties can entertain the idea of organizing the CBA for either clarity or better functionality, which is the recommendation of the Fact-finder.

III. UNRESOLVED ISSUES

1. ARTICLE 6 - DISCIPLINE

The Employer's Position

The Employer proposes to rewrite several sections in this Article to simplify and streamline its provisions and to make several substantive changes. It proposes to remove the "Written Caution" step from the discipline schedule; update record retention for active discipline by increasing certain retention periods; and provide that warnings and reprimands may not be

grieved to arbitration. It also proposes to reorganize and re-write language in numerous sections in this Article

The Employer argues that it already provides for a written warning and a written reprimand and the "written caution" level of discipline is unnecessary as a step in the progressive disciplinary process. The Employer argues that the current record retention for active discipline is unreasonable and well below the norm. It proposes to extend the retention period for written warnings from six (6) months to twelve (12) months and clarify that if a second subsequent disciplinary action is taken while the prior actions(s) is still in active status, all such disciplinary actions will remain in active status until such last disciplinary action expires. Further, it maintains that it is inefficient and costly to permit employees to file and prosecute a grievance over discipline less than a suspension, and it therefore proposes to incorporate language in this Article to provide that warnings and reprimands may not be grieved to arbitration.

The Union's Position

The Union was agreeable to revised retention language for active discipline similar to that proposed by the Employer, but opposes eliminating written cautions, eliminating the right to file a grievance for written warnings and written reprimands, and the proposed reorganization of the Article.

Discussion, Findings and Recommendation

A review of the disciplinary procedures set forth in Article 6 reveals a number of inconsistencies and procedurally burdensome steps that do not result in a clear, concise progressive disciplinary procedure. The Employer's argument that a written caution is an unnecessary step in the discipline process and not generally recognized in most comparable jurisdictions is persuasive. Additionally, the CBA is unclear on the difference between a written

warning and a written reprimand. It would make more sense to have a documented verbal warning, a written reprimand, a suspension, and a discharge as being clearer and more in line with other jurisdictions, which I shall recommend. While the Union argues that the Employer's proposal to exclude written warnings and reprimands from being grieved to arbitration should not be entertained by the Fact-finder, there was no evidence from either party that these levels of discipline have been the subject of arbitration proceedings in the past; i.e., not otherwise resolved internally in the grievance process provided in the CBA. As such, it cannot be concluded that the denial of the right to the Union members or the potential cost to the Employer has been a factor. Since warnings and reprimands have no current economic impact on an employee, arbitration proceedings are costly to all parties, and the norm in the industry is not to take this level of discipline to arbitration, the Fact-finder will recommend the Employer's proposal to restrict the type of discipline that can be taken to binding arbitration.

In regard to modifying the retention of active discipline for certain identified levels of discipline, the Fact-finder finds agreement among the parties on this issue and is recommending language that is clear on the issue.

I also find that a recommendation in re-writing/reorganizing Article 6 in light of the above makes sense to provide clearer language for the better understanding of the bargaining unit members and the Employer.

RECOMMENDATION

It is recommended that Article 6 be modified as follows: that the initial "written caution" step be removed from the progressive discipline step and that the remaining levels of progressive discipline be revised to "Documented Verbal Warning, Written Reprimand, Suspension and Discharge;" that record retention of active discipline be updated as proposed by the parties; that warnings and reprimands be excluded from being advanced to binding arbitration; and that Article 6 be otherwise rewritten for clarity (without other substantive changes) as proposed by the Employer.

2. ARTICLE 7 – SENIORITY AND JOB ASSIGNMENT

The Employer's Position

The Employer seeks to make a number of substantive changes to various sections in this Article and to overhaul this Article by moving certain sections to other Articles. The following is a summary of the substantive changes:

Section 1. Length of Service

The Employer proposes to use a master seniority list in place of the current use of seniority lists in different classifications; to narrow payment during a probationary period to a rate associated only with the job classification and not either a rate associated with a specific piece of equipment or a job classification; and to move the probationary period language to a new Article and increase the probationary period for employees not promoted or transferred within the bargaining unit to 365 days. It argues that using seniority lists by classification rather than by a master list of individuals qualified to perform the work is time consuming, that rates should be associated with job classifications and increasing probationary periods for new hires from the current 120 days to 365 days are necessary (see also probationary period under Section 5).

Section 2. Overtime

Significant changes are proposed for Sections 2(A) through 2(E) to:

- Use the Master List referred to in Section 1, for assignment of overtime. This will allow for ease of administration [compared to 8 lists – (mowing foreman, mower operator, sign shop, welder's helper, garage overtime (Mechanics), weed-whacking foreman, salt-brine list, miscellaneous equipment)) now] and to provide continuity for crew workforce.

- delete the paragraph referencing "prior commitment" leave because it serves no purpose. Neither management nor the Union could provide an example of what it might be.

- reduce compensatory time to 60 hours. While there was a time when compensatory time saved Employer's money, it does not with a small workforce of bargaining unit members. Furthermore, the Employer is having a hard time staffing in the "summer hours" due to excessive use of compensatory time.

Section 3. Job Posting

Significant changes are proposed for Section 3. Those include:

- Changing the job posting process by eliminating notification of (1) the department location, (2) the foreman assigned to the position, and (3) the equipment on the job. The Employer argues that the changes make the process more efficient. Currently, employees have the ability to bid on classification; however, for whom they work, where they work, and what piece of equipment they operate should be determined by the Employer. Currently, this is all dictated by the employee.

- Deleting language referencing "dedicating" equipment to a full-time job/dedicated operator of the equipment, if it is in operation more than 35 days. The Employer considers this to be an unnecessary restriction on managerial decisions on use of equipment and a potential waste of money. The contract is essentially creating a job, not the Employer

- Deleting the assignment of seasonal mower operator. The Employer believes this assignment can be rolled into a Mower Operator/Truck Driver classification and will add to the efficiency of operations. This classification would be paid as a Class II worker (see wage proposal).

- Deleting language giving the employee the right to return to his position anytime during the probationary period. It argues that this causes a "shell" game as multiple employees have to be reassigned. All workers bidding on positions know what the jobs are before they bid.

Section 5. Probationary Period

Consistent with its proposed revision in Section 1, it seeks to increase the probationary period to 365 days from the current 120, indicating that 120 days is insufficient to review the performance of the new hire.

Section 12. Sick Leave

The Employer proposed language to, in its view, streamline the article and also mirror the substantive portions of the Employer's non-bargaining unit policy. The most significant changes are to (1) change the definition of "instances" used to determine abuse under its Policy from one day to

two hours; and (2) change reference to the policies of the Montgomery County Engineer from the policy of Board of County Commissioners of Montgomery County.

Section 13. Tardy/Late Call-in

The Employer proposed eliminating a "Written Caution" step in the disciplinary process.

The Union's Position

The Union does not have any objection to moving some of the language in Article 7 to one or more other articles dealing with those topics, but opposes the substantive changes proposed by the Employer. The Union proposes retention of the current language in the contract, with the exception of a few proposals on its behalf.

The Union proposes to reduce the probationary period of an employee promoted or transferred within the bargaining unit to 30 days from the current 45 days under Section 1; to decrease the period a supervisor is required to perform a written evaluation on a probationary employee from 25 days to 20 days; to increase the amount of overtime an employee can accrue from the current 120 hours to a maximum of 200 hours; to permit the probationary period of employees not promoted or transferred within the bargaining unit to be extended beyond the current 120 days for an additional 60 days by agreement of the Montgomery County Engineer, the Union, and the employee; and to require any notification of available training to include the number of available openings for the training.

Discussion, Findings and Recommendation

Article 7, entitled "Seniority and Job Assignment," contains numerous topics beyond the scope of the subject matter to which the title refers. As an example, the topics of Military Leave, Court Appearance, Paychecks, and Sick Leave, to name a few, are included, but certainly not related to Seniority or Job Assignment. The Employer's proposal to move a number of these

topics to a named article of its own makes sense. It is my recommendation to do so, but before "reorganizing" the various sections into other articles, an analysis of the proposed substantive changes is in order.

While the Union opposes the utilization of a Master Seniority List for multiple uses within the CBA, the current system of basically using a seniority list within departments that entitles the most senior employee (length of continuous service) with the ability to perform the duties of the job (qualified to fill the position) to be selected for the bid, work or overtime assignment uses the same principal. It does make sense from an administrative perspective, which relates to cost savings in time, to use a master seniority list. A primary Union benefit sought to be retained, offering overtime work to crew employee(s) performing the work at the close of the regular shift first before reverting to a Master Seniority List, is addressed by the Employer's proposal and made a part of it. As such, it will be my recommendation to adopt the Employer's proposal to use a Master Seniority List as defined in the Employer's proposal in the new proposed CBA.

Since no rationale was presented for keeping the paragraph referencing "prior commitment" leave and no explanation was proffered as to why it is in the CBA, it will be my recommendation to delete that paragraph.

While the Employer seeks to decrease compensatory time and the Union seeks to increase it, the Fact-finder finds no abuses supporting a reduction or rationale supporting any increase. While the Employer was of the opinion that the use of compensatory time has a negative impact on summer hour staffing, the current language requires use of compensatory time off at a time mutually convenient to the employee and the Employer. With this current language, there should be no abuse.

Under its proposals under job postings, the Employer's changes are an effort to run a

more efficient operation (saving costs and improve performance). With a few exceptions, the Fact-finder finds merit in the proposed changes.

When a position for a job is posted, the employee certainly knows the nature of the job to which he/she is bidding; who the foreman is, and what equipment is being operated under the classification should be irrelevant. There is merit in noting the Department location, along with the classification and, in the event of a truck driver posting, the snow and ice control route. My recommendation will be to slightly modify the job posting criteria in the current CBA by eliminating the posting of the job foreman and the equipment in future postings.

Eliminating language regarding the dedication of equipment (in the event the equipment is operated more than 35 hours) and the assignment of seasonal mover operators (rolled into the Mower Operator/Truck Driver classification II in the wage scale) likewise makes sense, in an effort to allow for a more efficient operation with little impact on a bargaining member's work. While it may have had some significance to dedicate an operator to specific equipment in the past with a larger bargaining unit, it makes no sense for the Employer to have such restrictions in trying to get work performed efficiently with a smaller bargaining unit.

While proposals were submitted by both the Employer and the Union regarding the handling of probationary periods for employees promoted or transferred within the bargaining unit, the Fact-finder sees no rationale for making any changes to current language, with the exception of identifying the rate to be paid during the probationary period to a rate associated with the job classification. Reducing the probationary period for such employees does not seem to be in the best interest of the Employer, who needs time to assess the performance of the employee, or the employee, who may need the time to show his/her ability to perform the new tasks. The parties seem to have balanced these interests by permitting an employee to return

to his/her job anytime during the probation period and allowing the employee to elect to waive the last 20 days of the probationary period after their first evaluation. While the Employer paints this employee benefit as a "shell game," no evidence was submitted to support this allegation. The Fact-finder sees no benefit to the employee for giving up this bargained-for right in exchange for the asserted administrative benefit to the Employer. In regard to new hires, the Union's proposal to permit, upon mutual agreement, the extension of the current 120-day probationary period for an additional 60 days, and the Employers proposal to extend the probationary period to 360 days was considered in light of comparable jurisdictions. Since most jurisdictions cited have a 120-day probationary period for new hires, the Fact-finder has concluded that a recommendation of 120-day probationary period is in line with the desire for an increase by the Employer, an acceptable additional period by the Union, and in line with other jurisdictions.

The Employer's changes to sick leave, which were primarily in regard to its policy of sick leave abuse, essentially moved the accumulation of "instances" counting toward a level of discipline from days to a partial day (one day as an "incident" to 2 hours as an "incident"). It also changed the accumulation of certain Personal Absence leave from a calculation based upon days to one based upon hours. (e.g. ½ day in the current CBA is now calculated as 4 hours and l day in the current CBA is calculated as 8 hours). Testimony indicates that the changes were proposed to streamline the Sick Leave and Sick Leave Abuse policies to be in conformance with and mirror the substantive portions of the Employer's non-bargaining unit policy. While the Union questioned the change in reference from the Policies of the Montgomery County Board of County Commissioners (current) to the Policies established by the Montgomery County Engineer's office, testimony indicated that the policies were the same and no substantive change

was intended. Based upon evidence that sick leave abuse/attendance has been an issue with which the Employer has had to deal, the changes in regard to the calculation of incidences and the establishment of conformity among the Employer's work units (non-bargaining and bargaining), the Fact-finder will recommend the changes sought by the Employer.

In regard to the proposed changes of the Employer to Tardy/Late Call in, the Fact-finder finds that some level of modification is warranted in light of the above problems cited by the Employer. The parties are in agreement that for first 1-6 instances would be documented, but would not subject an employee to discipline. While the Employer's proposal is to eliminate one of the steps in the disciplinary process (elimination of a written caution), it appears that, as was the case in the elimination of the progressive discipline levels in Article 6, there is no difference between a reprimand and a warning; a reprimand is a warning. My recommendation is therefore to keep the written caution level, but to eliminate the written warning level. This will bring clarity to the language and address the concerns of the Employer to those few employees that abuse the tardy/late call in policies.

RECOMMENDATION

It is recommended that the language in several of the sections contained in Article 7 be modified as set for in my findings and discussion above and that several of the sections of the current Article 7 be moved to new Articles, which recommended changes as summarized in the Table of Contents set forth in Exhibit 1, attached hereto and made a part hereof.

3. ARTICLE 8 – SNOW AND ICE CONTROL

The Employer's Position

The Employer seeks changes to four (4) sections in this Article, which it avers is necessary to enable it to better fight snow storms.

Section 1. Failure to Perform Mandatory Overtime

The Employer proposes to add language to this section to enable it to assign work outside the bargaining unit if it determines that insufficient employees are available to work overtime. It argues that this is necessary in order to have sufficient personnel available at all times to clear snow covered roads for the safety and convenience of the public.

Section 2. Right to Equipment Overtime

The Employer proposes to delete the language in this section that provides for overtime based upon the equipment needed. It believes that this is an artificial way to increase overtime costs and overtime should be based on need and not the equipment utilized. The language contained in the CBA's of adjacent counties Butler, Clark, Greene, and Warren does not contain such language.

Both the Employer and the Union proposed new language that would restrict the eligibility of employees returning from sick leave to perform available overtime work. The language contained in the proposed language would conform to language in the CBA's of the adjacent counties Butler, Clark, Greene, and Warren.

Section 3. General Call Out (Waiver)

The Employer proposes to delete current language in this section, which entitles truck drivers with 3 years Snow and Ice control experience to waive (sign off) mandatory snow and ice control overtime. It believes ability to work overtime (mandatory or not) is an essential function of the job.

Section 6. Sixteen Hour Shift

The Employer proposes to eliminate provisions in this section that entitle an employee who works 16 hours to take a paid "rest break" for a maximum of 4 hours before resuming work

in the event of a major snowstorm. It argues that the provisions currently in this Article result in inefficient operations and costlier overtime. As an example, if an employee works for 16 hours and work could be completed in another two hours, it makes no sense to take a paid 4-hour break and then come back to complete the additional work. By deleting the current language, the Employer can eliminate this costly inefficiency. The language contained in the CBA's of adjacent counties Butler, Clark, Greene, and Warren does not contain language permitting paid breaks under similar circumstances.

The Union's Position

The Union proposes retention of current contract language, with the exception of changes in Section 2, which restricts the eligibility of employees returning from sick leave to perform available overtime work.

It opposes the changes proposed by the Employer, because it has not demonstrated any problems that have occurred, or excessive costs experienced, as a result of the implementation of the current language. The Employer has not shown that the existing bargaining unit has been unable to fill positions needed to address snow and ice control within the County, that the use of equipment overtime has not worked in the past, or that the use of the "break time" provisions have either been unworkable or costlier.

Discussion, Findings and Recommendation

Fighting major snow storms is a major concern of both the citizens of the County and the employees clearing the roads for the public's convenience and necessity. The public wants its roads clear at all times, the drivers clearing the roads are faced with long hours and potential safety concerns, and the County has to marshal its diminishing resources to balance the needs of

all involved. Some of the Employer's proposals make sense against this backdrop, but others do not.

The proposal of the Employer to have the ability to assign work outside the bargaining unit in the event insufficient employees are available for overtime to control snow and ice makes sense. This may look at first blush as diminishing bargaining unit work, but in the circumstances of the emergency that major snow and ice storms cause with hazardous roads and fatigued employees battling the storm, such a provision is reasonable and will be recommended by the Fact-finder. Additionally, the right to equipment overtime makes little sense; I would agree with the Employer that overtime should be based upon the needs of the job and not the utilization of the equipment.

The Fact-finder will recommend the language proposed by the Union that addresses when an employee returning from sick leave is eligible for overtime call-in.

The Fact-finder sees no evidence to support for the Employer's proposal to delete the waiver program for employees with 3-years snow and ice control experience. There is no demonstrated abuse or negative impact to the County Engineer as a result of this program.

The Employer's proposal to eliminate the paid break periods in sixteen-hour shifts in Section 6 lacks merit in light of the rationale and evidence supporting the request. While the Employer opined that the current provisions encouraged delay and *had the potential* to drive up overtime costs, there was no evidence to support these assertions. The Employer gave the example that in the event a job could be completed in only one additional hour, the four-hour break, with the extra time added on, demonstrated the delay and the extra unneeded overtime costs. The language proposed to be retained by the Employer in Section 5 of this Article,

however, prohibits an employee from working more than 16 consecutive hours. Since the employee is entitled to a break in the CBA after sixteen hours, it appears the effect of the Employer's proposal is to eliminate the paid break. I find no basis for eliminating this bargained-for language at this time.

RECOMMENDATION

It is recommended that the current language in Article 8 be retained with the following exceptions: language be added to Section 1 as proposed by the Employer permitting assignment of work outside the bargaining unit in the event employees are unavailable for overtime; the first paragraph of section 2 be eliminated and the second paragraph of section 2 be amended regarding eligibility for overtime call-in as proposed by the Employer.

4. ARTICLE 10 – TEMPORARY ASSIGNMENTS

The Employer's Position

The Employer proposes to use a Master Seniority List (see Article 7 above) to be used in making temporary assignments in place of a Roster for Temporary assignments, as provided in the current Article 10; eliminate language that triggers payment at the rate of the classification to which an employee is assigned after 2.5 hours (immediately pays the higher of the employees classification rate or the rate of the classification to which he/she is assigned); add language that temporary assignments will be offered to employees of the crew performing the work before using the Master Seniority List (actually consistent with current language); eliminate the language limiting the time the Employer can use non-bargaining unit employees for temporary help (currently April 30th to October 1); eliminate the use of temporary foremen; and eliminate the section addressing sign room temporary assignments, which would resultantly be governed by the Master Seniority List. The Employer argues that the right to assign work is a basic

management right and the Employer's proposal(s) ensures that it may dispatch its workforce in the most efficient way possible. As argued in regard to the provisions of Article 7, it believes the use of a Master Seniority List will eliminate the administrative burden of dealing with multiple "lists."

The Position of the Union

The Union proposes retaining current language in all five (5) sections of Article 10 with a one sentence addition at the end of Section 5 concerning the filling of a vacancy in the Sign Shop, which proposed language would require the Employer to fill all vacancies immediately. The Union argues that the Employer did not provide any rational explanation as to why Article 10 should be modified as proposed by the Employer, especially since there has not been any issues related to Article 10 during the term of the 2013-2015 collective bargaining agreement.

Discussion, Findings and Recommendation

The Employer's proposed changes to the temporary assignments Article are principally to be consistent with the use and maintenance of a Master Seniority List. Rather than maintaining a roster of employees qualified to perform temporary assignments (another list), it proposes to use the Master Seniority List identified in Article 7. Its proposal is consistent in offering temporary assignments to crew members first, but it also proposed to add the ability to assign employees to "crews" in addition to classifications. To be consistent in the utilization of a Master Seniority List, this proposal makes sense. Additionally, immediately paying a temporarily transferred employee at the higher of his/her current classification rate or the rate of the classification to which he/she is transferred makes sense; it is a benefit to the employee. As such, the Fact-finder will recommend these proposed modifications.

While its proposal to expand its authority to hire temporary help from a limited period, April 30 until October 1, to year-round, would provide additional help during the winter, it also has the effect of impinging upon work that the bargaining unit could perform, perhaps even on an overtime basis. Without further bargaining on the impact of this issue, the Fact-finder cannot recommend this modification.

The Fact-finder does not find the elimination of the Temporary Foreman section to have any impact on either the performance of the services of the Employer or the bargaining unit. If the Employer chooses not to post any temporary foremen positions, the provision does not come into play. If it does, then there is a mechanism in place for payment to a bargaining unit member for the extra duties.

Finally, since the Employer will be using a Master Seniority List to fill vacancies in the Sign Room, I would agree with the Employer that there would be no need to retain a separate list. It makes sense to delete this Section.

RECOMMENDATION

It is recommended that Section 1 of Article 10 be modified as proposed by the Employer to refer to temporary assignments to crews and classifications, the use of a Master Seniority List and provide for an immediate pay rate for temporary assignments; to eliminate section 2 and 5 as proposed by the Employer, as unnecessary; and to retain all other provision of this Article.

5. ARTICLE 14 – OVERTIME PAY

The Employer's Position

The Employer proposes to eliminate compensatory time and sick leave in the calculation for overtime. The Employer argues that it already pays in excess of (8) hours in a day and not the standard forty (40) hours in a workweek. It further argues that the proposed language will curb any

leave abuse. Sick leave is currently not considered in the calculation for overtime in comparable jurisdictions of Butler, Clark, Greene, and Warren Counties; compensatory time is also not included in the calculation of overtime in all of these comparable jurisdictions, with the exception of Warren.

The Union's Position

The Union proposes to maintain current contract language. It argues that the Employer has not produced any documents that the overtime costs under the 2013-2015 collective bargaining agreement is any different than under prior collective bargaining agreements. Other than snow and ice removal, the Employer is in complete control of any overtime hours worked by the bargaining unit employees and the changes suggested by the Employer has not been demonstrated to reduce any overtime costs the Employer may have incurred from the 2013-2015 collective bargaining agreement in any significant amount.

Discussion, Findings and Recommendation

While the Employer is correct that compensatory time and sick leave, either one or both, is not included in comparable jurisdictions, I would agree with the Union that no evidence or testimony has been submitted to show that overtime costs under the 2013-2015 collective bargaining agreement is any different than under prior collective bargaining agreements. Since the issue of addressing sick leave abuse has been addressed in Article 7, the Fact-finder sees no justification to make any changes to this Article.

RECOMMENDATION

It is recommended that the language in Article 14 remain the same as in the prior contract.

6. ARTICLE15 – HOURS OF WORK

The Employer's Position

The Employer proposes to modify language in this Article to revert back to the 8.5-hour work day (includes ½ hour unpaid) lunch, instead of the current 8-hour day, which had only been in effect during the last contract, and to delete the current provisions regarding break periods so that the employees will not stretch the break periods into extended lunches. The Employer has found it difficult to police these breaks with employees stretched over multiple locations. The Employer wants to extend the work day because it discovered that shortening the workday makes it more difficult to work with various vendors. It is the Engineer's opinion that the current schedule is not in the best interest of the taxpayer. The prior schedule, which is proposed here, is consistent with the work schedules in the comparable jurisdictions of Butler, Clark, Greene, and Warren Counties. The Employer has also proposed deleting Section 6, which includes a provision providing employees engaged in bridge painting from receiving ten (10) minutes of additional clean-up time. The Union is in agreement with this since the bargaining unit no longer paints bridges.

The Union's Position

The Union proposes retention of current contract language. It submits that the Employer has not provided any rational basis for its proposed revisions to Article 15. The elimination of the thirty (30) minute unpaid lunch period and the elimination of two (2) fifteen (15) minute paid breaks in return for a thirty (30) minute paid lunch period in a straight eight (8) hour shift occurred in the negotiations for the 2012-2015 collective bargaining agreement with both parties making compromises on that provision and other provisions in order to obtain the language that

currently is contained in Article 15, Section 5. The Employer's proposal to return to the thirty (30) minute unpaid lunch and two (2) fifteen (15) minute breaks without also proposing some benefit to the bargaining unit employees demonstrates the Employer's lack of a historical perspective in the negotiation process. The Union wanted the current language regarding 15-minute breaks because it needed flexibility for its employees to avoid removing equipment from a work area just for a break, which was inefficient.

Discussion, Findings and Recommendation

The Fact-finder can find no specific examples or evidence to support any modification to this Article. While the Employer averred that the changes implemented in the last CBA proved to be unworkable when compared to the scheduled hours of work that had existed in previous CBAs, the Fact-finder could draw no conclusions that the changed hours or work was not in the best interest of the taxpayer. If employees are abusing the breaks or lunch hours, management has the right to discipline those employees for such infractions. Since this "new" schedule was negotiated as a concession among the parties in the last CBA, the Fact-finder would need to have much more information regarding any negative impact resulting from the new work hours before recommending a change to which the Union opposes.

RECOMMENDATION

It is recommended that the language in Article 15 remain the same as in the prior contract.

7. ARTICLE 18 - UNIFORMS

The Employer's Position

The Employer proposes to eliminate the second issuance of pants and shirts (uniforms); retain the current issuance of T-shirts, sweatshirts and hooded-type sweatshirts; and continue the current $250 uniform allowance. It argues that the cost of the second uniform issuance is approximately $380.00, which is unnecessary, and it cannot afford the additional cost. The Employer has proposed other minor clarifications as to what can and cannot be worn and proposes to eliminate the tax-free voucher system and replace it with an allowance check. This is due to the fact that during a recent voucher audit it was discovered that multiple bargaining unit members were purchasing items totally unrelated to work (some items for other family members) on the taxpayer's money. The allowance system will permit the bargaining unit member to purchase items at the member's discretion, while still requiring the bargaining unit member to show up for work in proper attire. The Employer will continue to replace uniforms provided by the Employer free of charge on an as needed basis.

The Union's position

The bargaining unit members agreed to receive substantially less uniform items than had been previously provided under the 2012-2015 collective bargaining agreement, but under its proposal, other than the specified mechanics and welders, the remaining bargaining unit employees will not be receiving any sets of uniforms, but instead will receive ten (10) pocket Tee shirts, six (6) pullover sweatshirts, two (2) lined hooded sweatshirts, and a voucher not to exceed four hundred fifty dollars ($450.00) each contract year for the purchase of additional specified work wear or work boots. The additional two hundred dollars ($200.00) in the annual allowance voucher (up from the current $250) is needed to purchase the pants and shirts that had

been previously provided by the Employer and the additional specified work wear and work boots to be purchased on an annual basis.

Discussion, Findings and Recommendation

Through the bargaining process and mediation, the parties came close to an agreement on the issue of uniforms, but disagreed principally on the amount of dollars to be provided to an employee for the purchase of additional clothing/uniforms, and whether the allotment should be given to an employee in the form of a voucher or an allowance check not to exceed a specified amount. Even though both parties modified their position in their position statements, the Fact-finder concluded that the parties were in general agreement on permitting employees in certain classifications (Mechanic 1, Mechanic 2 without ASE Master Certification, Mechanic with ASE Master Certification, Certified Welder, Building Maintenance Mechanic, Building Maintenance Worker and Stock Room Attendant) to elect to receive either (a) rental uniforms with an award of an additional $250 for the purchase of other uniform/work items or (b) to receive T-shirts, pullover sweatshirts, and hooded sweatshirts with an award of an additional amount of money (Employer-$250; Union-$450). All other employees not falling within the above-referenced classifications would receive a uniform allowance in option (b). The Employer proposed providing the $250 via an allowance and the Union proposed receiving the $250 under option (a) and the $450 under option (b) as a full voucher.

Based upon the economic report of the Employer, which will be discussed more fully in the Wages Article, the Employer made a case that available money to fund its operations was diminished, and it needed to find ways to reduce costs of operation. Here, both parties were in agreement to reduce the second issuance of uniforms and made headway in the issuance of other

clothing items. The disagreement over the amount of additional dollars that should be made available to the employees and the manner in which those dollars were funded could not be overcome. Based upon an assessment of the concerns of the Employer in regard to inappropriate expenditures and the concerns of the Union that its members need sufficient money to purchase uniforms to comply with the Employer's policy, it is the recommendation of the Fact-finder that the proposed two options be offered, that those electing option (a) (rental uniforms) receive an allowance not to exceed $250, that those electing option (b) receive an allowance not to exceed $450. This will ensure Employer that the money spent is as intended on the employee and the employee will have sufficient additional funds to not only make up for the diminution in uniforms received, but have sufficient funds to purchase necessary additional uniform items. These recommendations will also result in saving the Employer on the overall cost of providing uniforms and appropriate uniform allowances.

RECOMMENDATION

It is recommended that the proposal of the Union as set forth in its January 11, 2016, proposal, attached as Exhibit 2, be adopted, EXCEPT wherever the word "Voucher" appears, it shall be replaced with the word "Allowance."

8. ARTICLE 19 – GROUP INSURANCE

The Employer's Position

The Employer is proposing that bargaining unit employees pay the same contributions and receive the same benefits as non-bargaining unit employees. The Employer feels this proposal is fair and equitable for all Engineer employees. The County is self-insured, and the Commissioners have the "last word" on health insurance.

The Union's Position

The Union proposes that all employee contribution levels, employee co-pays and employee deductibles remain the same through December 31, 2018. The Employer's proposal includes the potential for unspecified increases in employee contributions, employee co-pays and employee deductibles, which the Union finds unjustified. Until more information can be provided to the bargaining unit members, the Union is requesting that the Employer provide updated information as to the benefits' structure and proposed increases in employee contributions, employee co-pays and employee deductibles before any changes are agreed to.

Discussion, Findings and Recommendation

The Employer is not proposing to increase any premium contributions made by the employees under its proposal, but the Union is correct that the potential for unspecified increases in employee contributions, employee co-pays, and employee deductibles exists. Since it administers a self-funded plan, the Employer seeks to offer all of its employees, both bargaining and non-bargaining, the same employee contributions, employee co-pays, and employee deductibles package. The result is intended to prevent one group of employees from subsidizing the other. All employees are aware of the increasing costs of health insurance and have shouldered increased contributions over the last several years. It is likely those costs will continue to climb, although the Employer offered testimony indicating that claims over the past year have decreased, and if such a trend continued, the result should be decreased or stabilized premium costs. It makes sense for the employees and the Employer to offer the same plan to all of its employees under the circumstances presented by the Employer. Additionally, since this proposal should result in a cost savings over time to the Employer, those savings should be reflected in employee contributions.

RECOMMENDATION

It is recommended that Article 19 be amended to provide that bargaining unit employees pay the same contributions and receive the same benefits as non-bargaining unit employees.

9. ARTICLE 20 - WAGES

The Employer's Position

The Employer's Proposal is to freeze wages for the life of the contract. The Employer's fund balance has continued to decline over the last several years and was only absolved by borrowing money ($2.9 Million) in 2014. Without this loan, the Engineer's Office would have been well-below the Montgomery County Engineer's Office of Management and Budget (OMB) mandate (18% of the following years adopted budget or roughly two months of cash flow). The fund balance would have been 6% for 2014 and 12% for 2015 but for the loan, which brought the fund balance up to 21% and 28%, respectively. Payoff of this loan over the next eight years is expected to have an annual impact of $209,364 on the projected budget.

Based upon a review of its budget, the Employer indicates that it has an inability to pay (or in the alternative a limited ability to pay). It argues that Wage comparables show that Montgomery County has the highest paid maximum step (Highway Worker 3) at more than 4.5% over the next highest comparable. Additionally, Highway Worker I and II are compensated at a rate slightly behind the highest paid comparable; within 1.77%. The Employer believes that this shows Montgomery is more than competitive with the comparable jurisdictions and pays a fair wage to all three classifications.

If any wage increase is awarded (the Employer does not believe one is warranted), the Employer proposes that the Fact-finder set wages for a prospective date in the contract; it objects

to retroactively paying any wage increase.

The Employer proposes to create the classification of Mower Operator/Truck Driver and place it in Classification II. The positon will perform combined duties based upon the season. It is a pay raise for those Truck Drivers who would be placed in the combined position. The Employer proposes the Welder Classification be placed into Classification II. The Employer believes this was a clerical error during the previous contract negotiations.

The Employer proposes to eliminate the "me-too" clause in the contract. The "me-too" piggy-backs off of the Board of Commissioner employees who are funded entirely different. The Engineer relies almost solely on motor vehicle and gas tax and it philosophically believes that this unit should bargain for itself. Not to mention, the Union tried to overreach the "me-too" this contract period and lost a recent arbitration on this very issue.

The Union's Position

The Union proposes a $1.25 per hour increase added to steps E through I effective January 1, 2016, with a five hundred dollars ($500.00) lump sum payment; a $1.25 increase added to steps E through I effective January 1, 2017; and a $1.25 increase added to steps E through I effective January 1**,** 2018. The Union also proposes that a longevity payment of fifty dollars ($50.00) per year of service after a completion of five (5) years of service. The Union proposes retention of the "me too" clause which provides for an additional increase for the bargaining unit employees over the amount of the negotiated or awarded increase received by bargaining unit employees under the three (3) circumstances set forth in Section 4.

Discussion, Findings and Recommendation

It appears that the Employer's revenues through 2018 are forecast to remain steady, with slight increases in expenses over the same period of time. If this scenario plays out, it will have a

positive fund balance at the end of the three-year CBA, but well below the OMB recommended percentages. It appears from the financial provided that this scenario included some increases for salaries and benefits. The Employer's opinion that it has a limited ability to pay increases in wages is supported by the financial data. It must be noted that the revenues did not take into consideration any additional funding from the County general fund.

The comparables do support the Employer's position that the members of this bargaining unit are well paid in comparison to comparable positions in the contingent counties. It must be noted, however, that Montgomery County is among the largest in population and land size of the cited comparable jurisdictions. With this in mind, it is concluded that the bargaining-unit members are appropriately paid. As a result of a reduced workforce, and certainly not any less work, the current bargaining unit needs to be paid at the top of the "comparable" list in order to properly serve the County's public. Based upon the proposed concessions by the bargaining unit in regard to group insurance and to adequately pay the current members, a slight adjustment to their wages is appropriate, but certainly not as proposed by the Union. The Fact-finder concluded from the evidence that a wage increase of 1.5% for each year of the CBA is appropriate, but no additional increases in longevity pay or other lump sum payments are in order. This bargaining unit has enjoyed increased wages in each of the last three years of their collective bargaining agreement at a time when revenues were down, expenses were up, and the Employer had to borrow money to maintain proper fund balances. While an increase is justified as set forth above, my recommendation is for only a modest increase.

"Me too" clauses were originally designed to help create uniformity between multiple unions regarding wages, benefits, and working conditions. More recently, because local government funds have been cut back and less money has been available for any raises, Unions

in particular have wanted to keep the averments of the public employer's "limited ability to pay" "in check" by making sure that the negotiation of any lower or no wage increase is in line with the wages given out by the Employer to other employment groups in the jurisdiction. While there are many pros and cons to these clauses, once they have been negotiated into a CBA, the Employer must demonstrate a reason based upon 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 the public. Here the Employer cited an arbitration proceeding wherein there was an attempt to invoke the "me too" clause improperly. The Employer also cites the *possibility* of triggering events that would further deplete its limited resources, but no specific examples were given. The Fact-finder considered these to be insufficient reason for deleting the provision without more rationale. Based upon the financial condition of the Employer, as projected, it is highly unlikely that the terms of the current "me too" provisions will come into play during the three-year term of the proposed CBA. As such, the Fact-finder finds no compelling reason to delete this provision from the proposed CBA.

The Employer's proposal to create the classification of Mower Operator/Truck Driver and place it in Classification II is recommended based upon the rationale submitted by the Employer.

RECOMMENDATION

It is recommended that Article 20 be modified to provide a 1.5% increase in wages added to steps E through I effective January 1, 2016; a 1.5% increase in wages be added to steps E through I effective January 1, 2017; a 1.5% increase in wages be added to steps E through I effective January 1, 2018; the creation of the classification of Mower Operator/Truck Driver which is to be placed in Classification II; moving a welder from Classification III to Classification II; and modifying Section 4 to reflect a triggering of any "me too" increases to wage rate amounts above 1.5% in subsections (A), (B), and (C) and/or any lump sum payments. The remainder of the language in Article 20 should be retained.

10. ARTICLE 22 - DURATION

The Employer's Position

The Employer proposes a three-year contract.

The Union's Position

The Union proposes a three-year contract effective January 1, 2016 and expiring on December 31, 2018.

Discussion, Findings, and Recommendation

Both parties are proposing a three-year CBA, but the primary difference is that the Employer requested that any wage increase become effective after the contract is ratified with no retroactivity. While each party may blame the other for the delay in advancing the negotiations on the new CBA, the Fact-finder finds no compelling reason for denying the bargaining unit the increase in wages effective the beginning term of the CBA.

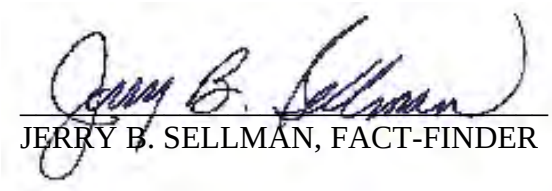
RECOMMENDATION

It is recommended that the term of the new CBA become effective January 1, 2016 through December 31, 2018.

CONCLUSION

In conclusion, this Fact-finder hereby submits the above referenced recommendations on the outstanding issues presented to him for his consideration. Further, the Fact-finder incorporates all tentative agreements previously reached by the parties and recommends that they be included in the Parties' Final Agreement.

March 25, 2016



JERRY B. SELLMAN, FACT-FINDER

Exhibit 1

TABLE OF CONTENTS

Union Proposal
Article 18-Uniforms
January 11, 2016

Exhibit 2

ARTICLE 18
Uniforms

Section 1. Uniforms

Mechanic 1, Mechanic 2 without ASE Master Certification, Mechanic with ASE Master Certification, Certified Welder, Building Maintenance Mechanic, Building Maintenance Worker and Stock Room Attendant shall ~~**have the option to**~~ receive **uniform option A or option B below.** ~~**eleven (11) rental uniforms and an annual (contract year) allowance voucher not to exceed two hundred fifty ($250.00) dollars for the purchase of any single item or combination of the following: Carhartt work wear, other work wear wear, and/or Montgomery County Engineer's Office approved work boots, work socks, work boot inserts or work wear, or the same items available for all other bargaining unit employees as set forth in Section 1.B. below. The Montgomery County Engineer shall utilize a voucher system whereby employees are given a purchase order number with which to purchase ANSI approved protective boots from a supplier of the Montgomery County Engineer's choice.**~~

All other bargaining unit employees shall receive ~~**six (6)**~~ uniforms **items as set forth in Section 1.B. below.** New uniforms shall be issued as follows:

A. Eleven (11) uniforms (rental basis) to above listed employees **within 90 days after ratification of Agreement.**

1. A voucher not to exceed two hundred fifty ($250.00) dollars each contract year for the purchase of any single item or combination of the following: Carhartt work wear, other work wear, or accessories and/or ANSI approved protective work boots, work socks, work boot inserts or work wear. Employees shall be given a purchase order number with which to purchase these from a supplier of the Montgomery County Engineer's choice.

B. All other employees shall receive the following allotment of uniforms **items** ~~**in the following distribution schedule**~~ **within 90 days after ratification of Agreement:**

~~Set One (to be provided within 90 days after ratification of Agreement)~~

~~1. One (1) set of six (6) pants and shirts:~~
~~a. Pants can be either uniform style or blue jean;~~
~~b. Pants order can be mixed, part long and part short, total amount shall not exceed six (6)~~
~~c. Uniform shirts can be mixed between long sleeve and short sleeve, the total amount shall not exceed six (6).~~

1. Ten (10) pocket T-shirts
2. Six (6) pullover sweatshirts

3. Two (2) **lined** hooded type sweatshirts
4. **A voucher not to exceed four hundred fifty ($450.00) dollars each contract year for the purchase of any single item or combination of the following: Carhartt work wear, other work wear, or accessories and/or ANSI approved protective work boots, work socks, work boot inserts or work wear. Employees shall be given a purchase order number with which to purchase these from a supplier of the Montgomery County Engineer's choice.**

~~Set Two: delivered on or before May 1, 2014:~~

~~1. One (1) set of six (6) pants and shirts:~~
~~a. Pants can be either uniform style or blue jean;~~
~~b. Pants order can be mixed part long and part short, total amount shall not exceed six (6)~~
~~c. Uniform shirts can be mixed between long sleeve and short sleeve, the total amount shall not exceed six (6).~~
~~2. Five (5) pocket T-shirts~~
~~3. Three (3) pullover sweatshirts~~
~~4. One (1) hooded type sweatshirt~~

C. Uniforms **under Section 1.A. above and uniform items under Section 1.B. above** shall be replaced when damaged beyond repair in the ordinary course of an employee's duties.

D. At the discretion of the Operations Engineer uniform summer shirts may be sleeveless with V-type necks.

~~Uniform combination as listed above cannot be altered in content. Example: Trading uniform shirts for additional blue jeans. Employees may option not to receive the full issue amount. Example: receiving four (4) shirts instead of six (6). Employees shall not receive the cash value of uniforms not issued.~~

Employees must wear the uniform shirt, but may wear denim pants, **work pants, cargo pants, carpenter pants, or shorts (job permitting)**, ~~rather than the uniform pants, either of which shall be provided by the Montgomery County Engineer. Those employees desiring denim pants must notify the Montgomery County Engineer before receiving the above stated uniforms.~~

~~Employees serving the initial probationary period of one hundred and twenty (120) calendar days shall become eligible for uniforms upon completion of their probationary period.~~ The Montgomery County Engineer shall provide laundry service for those employees entitled to receive eleven (11) uniforms **under option 1.A. All** other employees shall have the responsibility to keep their uniforms **items** clean and well-maintained at all times. Uniforms **and**

uniform items provided by the Employer ~~remain the property of the Montgomery County Engineer and~~ shall not be worn other than during working hours, except that uniforms **and uniform items provided by the Employer** may be worn to and from work.

The wearing of uniforms **or uniform items provided by the Employer** shall be mandatory. Employees may wear other plain outerwear items of clothing, such as insulated coveralls and parka style coats; however, such items must be compatible with the remainder of the issued uniforms **or uniform items**. Such uniforms and uniform items as issued by the Montgomery County Engineer shall be clearly marked, where deemed appropriate, so as to identify the wearer as an employee of the Office of the Montgomery County Engineer. Nothing may be worn on the uniform or the outerwear items. An employee must wear his or her uniform ~~t~~-shirt if the employee removes his or her uniform **outerwear.** ~~shirt.~~ Any undergarments of varying sleeve lengths must not extend beyond the sleeve length of the issued uniform shirt.

~~Annually each employee receiving uniform items under Section 1.B. above shall have an allowance not to exceed *four* two hundred fifty *($450.00)* ($250.00) dollars for the purchase of any single item or combination of the following: Carhartt work **wear, other work wear** or accessories and/or Montgomery County Engineer's Office approved work boots, work socks, work boot inserts or *work* winter wear. The Montgomery County Engineer shall utilize a voucher system whereby employees are given a purchase order number with which to purchase ANSI approved protective boots from a supplier of the Montgomery County Engineer's choice. The amount of the voucher shall be capped at $450.00 per contract year.~~

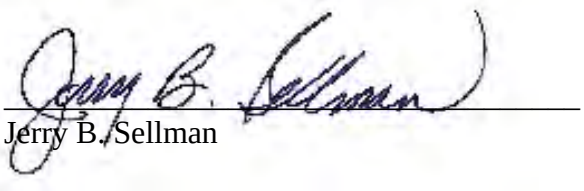
CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the Fact Finder's Report was sent via email, receipt confirmed, on March 25, 2016 to:

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

Mr. Brian Butcher
Clemans Nelson & Associates
485 Metro Place South, Suite 200
Dublin, Ohio 43017
bbutcher@clemansnelson.com

John R. Doll, Esq.
Doll, Jansen and Ford
111 West First Street, Suite 1100
Dayton, Oh 45402-1156
jdoll@djflawfirm.com



Jerry B. Sellman