STATE EMPLOYMENT RELATIONS BOARD
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STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In The Matter of Conciliation Between:

Ohio Patrolmen's Benevolent Association	:	**Case No. 03-MED-10-1081**
	:	
and	:	
	:	**Conciliation Report and Award**
The Montgomery County Sheriff	:	

Hearing Date: June 29, 2004

Before: Daniel N. Kosanovich
28 East Rahn Road
Suite 100
Dayton, Ohio 45429
(Conciliator)

Principal Advocate for the Union:

Joseph M. Hegedus
555 Metroplace North
Suite 100
Dublin, Ohio 43017

Principal Advocate for the County Sheriff:

Jonathan J. Downes
400 South Fifth Street
Suite 200
Columbus, Ohio 43215-5492

I. Introduction

The parties entered into a Conciliation Agreement on November 25, 2003, which reads as follows: "It is hereby agreed by the Montgomery County Sheriff's Office ("Employer") that in consideration of the Ohio Patrolmen's Benevolent Association ("Union") agreeing to extend until February 29, 2004, for the Fact-Finder to conduct a Fact-Finding hearing and issue an opinion in Case Nos. 03-MED-10-1081 and 1082, the Employer agrees to waive the limitation of the Conciliator's powers as provided in the Ohio Revised Code 1417.14 (G) (11), and agrees that the increase in rates of compensation and other economic benefits with cost implications awarded by the Conciliator may take effect on or after January 1, 2004, unless otherwise agreed by the parties."

The undersigned was appointed Conciliator in this matter on April 20, 2004, in correspondence from SERB. To allow the parties ample opportunity to bargain collectively, the hearing date was scheduled for June 29, 2004.

The parties, in accordance with Code 4117-9-06 (E), filed their respective position statements with the Conciliator in advance of the hearing. In addition to the Conciliator's appointment letter, SERB submitted the Fact-Finder's Report for consideration pursuant to Section 4117.14 (G) (6) of the Ohio Revised Code.

At the outset of the hearing, the Employer raised, for the first time in negotiations, the issue that only a portion of the bargaining unit was subject to Conciliation. It was the Employer's position that those individual employees who were not sworn police officers, i.e., civilians, were not subject to the Conciliation Report and Award. After much discussion and after the Union indicated the desire to postpone the hearing in order to address the issue with SERB, and after the Conciliator indicated a willingness to grant such a continuance, the Employer withdrew from its position for purposes of this Conciliation only.

The parties proceeded to the Conciliation hearing on June 29, 2004. A voluminous record was compiled through the use of testimonial evidence and documentary evidence.

At the conclusion of the hearing, the parties agreed to submit post-hearing briefs. Those briefs were submitted. The parties also agreed that the Conciliator's decision would be due on August 31, 2004, but that deadline was extended by mutual agreement of the parties to September 14, 2004.

II. Criteria

The Ohio Revised Code, Section 4117.14 (G) (7) establishes the criteria to be considered for conciliators. For the purposes of review, the criteria are as follows:

1. Past collective bargaining agreements, if any, between the parties;

2. Comparison of issues submitted to final offer settlement relative to the employees in the bargaining unit involved with those issues related to other public and private employers doing comparable work, giving consideration to factors peculiar to the area and classification involved;

3. The interests 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. The stipulations of the parties;

6. Such factors not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of issues submitted to final offer settlement through voluntary collective bargaining, mediation, conciliation, or other impasse resolution procedures in the public service or in private employment.

III. Background

A. The County and the Bargaining Unit

Montgomery County is situated in southwest Ohio and covers approximately 461 square miles. The County seat is the City of Dayton, which is the largest city in the County with a population of 182,044 people. In 2000, the County's population was 559,062 people. However, for each year since 1988, the County has experienced a negative net migration. By the year of 2030, the population of the County is estimated to decline to 524,062 people. Statistical data submitted at the hearing indicates that 80.5284% of the County's residents live in incorporated areas.

Overall, the County employs 4,500 people. Of the County's employees, some 2,400 individuals are counted among the various collective bargaining units. The Sheriff's office accounts for 471.5 authorized positions. Forty-four and one half (44.5) of those positions are being held open, thus there are 427 active positions in the Sheriff's Office. The number of employees in the bargaining unit totals 183. The classifications held by the employees in the bargaining unit are as follows:

	No. in Classification	Base Pay ($)	Top Pay ($)
Bookkeeper (BKKP)	2.	12.37	16.27
Civilian Dispatcher (CDISP)	23.	12.79	18.44
Clerk Typist (CKTYP)	16.	12.37	16.27
Corrections Officer (CO)	123.	12.74	18.36
Execution Clerk (EXCK)	1.	12.41	16.33
Program Coordinator (PROG)	1.	12.85	18.53
Recreation Officer (RECCO)	2.	13.02	17.12
Secretary (SECOF)	11.	12.37	16.27
Communications Tech. II (TCII)	2.	15.47	20.35
Communications Tech. III (TCIII)	1.	17.51	23.03
Victim Advocate (VCTAD)	1.	13.08	18.86
Total in Bargaining Unit	183.		

The record indicates that these employees are among the lowest paid county employees. Moreover, there is a significant turnover in the bargaining unit.

B. Summary of Significant Financial Data

REVENUE STREAM

The County projects that it will take in 142.9 million dollars of General Revenue Funds in 2004. A comparison of the General Fund Revenues for the years of 2000-2004 indicates the following:

Year	General Fund Revenues
2000	156.5 million
2001	155.0 million
2002	152.4 million
2003	150.8 million
2004	142.9 million (projected)

The General Fund Revenues are received from various sources. The Revenue Stream includes sales tax, property tax, Local Government Fund monies, investment returns, charges for services, and other miscellaneous revenues.

- ***Sales Tax Revenue***

Sales tax revenue amounts to 45.1% of the General Fund Revenues. For the year of 2004, the sales tax revenue is projected to be 64.4 million dollars. A comparison of the sales tax revenue for the years of 2000-2004 demonstrates the following:

Year	Sales Tax Revenue
2000	64.3 million
2001	63.8 million
2002	63.7 million
2003	64.2 million
2004	64.4 million (projected)

Sales tax revenues have been flat but steady over the period of 2000-2004. The growth in retail in Greene, Warren, and Butler Counties has impacted Montgomery County's growth. In addition, the general slow down of sales due to the sluggish economy has also played a role in minimizing sales tax revenue growth.

- ***Property Tax Revenue***

Property tax revenue also contributes to the General Fund Revenues. The evidence indicates that property tax revenue amount to 10.8% of the General Fund Revenues. Comparing property taxes for the years of 2000-2004 results in the following:

Year	Property Tax Revenues
2000	13.6 million
2001	13.7 million
2002	13.7 million
2003	14.9 million
2004	15.5 million (projected)

Property tax revenues include both general and personal property taxes.

- ***Investment Revenue***

Investment revenue is projected to account for 11.1% (15.9 million dollars) of the 2004 General Fund Revenues. The County operates under strict rules and guidelines that govern investments. For instance, investments cannot be made for more than five (5) years and the investments must be conservative. Comparing investment returns (which translates to investment revenue) for the years of 2000-2004 yields the following:

Year	Investment Revenue
2000	25.6 million
2001	23.0 million
2002	20.4 million
2003	20.3 million
2004	15.9 million (projected)

It must be noted that the interest rate reductions announced by the Federal Reserve have had a negative impact on the County's ability to earn investment income.

- ***Local Government Funding Revenue***

The State of Ohio shares a portion of its revenues received from state taxes to local governments, including Montgomery County, through the Local Government Fund. Previously, the County could count on a regular increase of Local Government Fund revenues averaging about 4% per year. Recently, however, the State has reduced the local funding, and revenues from the Local Government Fund are frozen due to the State's budgetary problems. Local Government Funding revenue accounts for 10.7% of the General Fund Revenues. A comparison of the Local Government Funds received by the County for the years of 2000-2004 indicates the following:

Year	Local Government Fund Revenue
2000	16.2 million
2001	16.4 million
2002	15.6 million
2003	15.4 million
2004	15.3 million (projected)

It is significant to note that this revenue source will be in further jeopardy if the State legislature cuts local funding significantly or altogether. The temporary State sales tax is set to expire in July 2005. If it is not renewed, then the Local Government Funding revenue source may be eliminated. There is another risk associated with the County's Local Government Funding. As noted above, 80.5284% of the residents living in Montgomery County live in incorporated areas. If this percentage would grow to 81%, the County would lose five (5) million dollars in Local Government Funding.

Charges for services amount to 11.7% of the General Fund Revenues. The Miscellaneous Revenues amount to 10.6% of the General Fund Revenues.

EXPENSES

There are two ways to view the General Fund Expenses for the County. One is to view the expenditure by category, and another is to analyze the expenditures by program area. The record demonstrates that 59.2% of the General Fund expenditures by the County consist of salaries and fringe benefits. 17.8% of the expenditures from the General Fund are spent on professionals. Operating expenses amount to 16.2% of the budget. Debt service amounts to 3.4% of the budget, and Community Programs represents 3.4% of the General Fund expenditures.

By program area, the Judicial/Law Enforcement programs account for 67% of the General Fund expenditures. The General Government accounts for 17.8% of the expenditures. The Community and Economic Development program accounts for 5.9% of the expenditures. Social Security accounts for 5.3% of the expenditures. Debt Services account for 3.4% of the expenditures, and Environmental/Public Works account for .6% of the expenditures.

CAPITAL IMPROVEMENTS

The County has also invested capital in various community projects including Riverscape, Fifth Third Field, and the Schuster Center. In addition, the County has dedicated approximately eleven (11) million dollars to the Montgomery County Jail expansion and the Sheriff's Department renovations.

Prior to the jail expansion, the County was in dire need of additional space to house prisoners. The County pays approximately $60.00 per day to house a prisoner in the Montgomery County Jail. The costs are higher to house prisoners in alternative locations with transportation costs. By expanding the jail facility, the County will realize an annual cost savings of approximately 2.8 million dollars per year. This expansion will produce savings which will offset the construction costs in less than four (4) years.

UNENCUMBERED FUND BALANCE

The record also demonstrates that the County has a significant unencumbered General Fund balance. Comparisons of the unencumbered General Fund balance for the years of 2000-2004 yields the following:

Year	Unencumbered Balance
2000	$37,609,058
2001	$37,609,447
2002	$37,609,496
2003	$37,611,005
2004	$35,721,999 (part of adopted budget with no wage increases)

As noted by Fact-Finder Slonaker in his Fact-Finding Report and Recommendations, the General Fund balance can be used for any fund operation including wages and benefits. Moreover, it is sufficient to maintain an unencumbered fund balance of 5% to 15% of the overall budget.

C. Other County Bargaining Units

As noted above, Montgomery County has a number of bargaining units in addition to the one at issue in this matter. Each of those bargaining units has labor agreements with the County governing wages. A review of those bargaining units indicates the following:

Wages

Union Identification	Personnel Type	2004	2005	2006
OPBA	Sergeants, Lieutenants	1.5% ACB	2% ACB	2.5% ACB
FOP 104	Deputies	1.5% ACB	2% ACB	2.5% ACB
PGO	MRDD	Re-Opener	Re-Opener	
PGO	Children's Services	2.62% ACB, No steps	2.58% ACB, No steps	
Teamsters 957	Engineer's Office	1% ACB, $1,700 Lump sum	2% ACB	2% ACB
DPSU	County employees (Full-time)	0% ACB, $1,700 Lump sum, No steps	1.5% ACB, 1.5% steps	Re-Opener
DPSU	County employees (Part-time)	0% ACB, $1,700 Lump sum, No steps	1.5% ACB, 1.5% steps	Re-Opener
DPSU	Public Defender	0% ACB, $1,700 Lump sum, No steps	2% ACB	Re-Opener
DPSU	Clerk of Courts	0% ACB, $1,700 Lump sum, $240 Lump sum (7/1/04), No steps	2% ACB, $240 Lump sum (1/1/05), no steps	2% ACB, $240 Lump sum (1/1/05), no steps
DPSU	Veteran Services	0% ACB, $1,700 Lump sum, $240 Lump sum (7/1/04), No steps	2% ACB, $240 Lump sum (1/1/05), no steps	2% ACB, $240 Lump sum (1/1/05), no steps

Insurance

Union Identification	Personnel Type	2004	2005	2006
OPBA	Sergeants, Lieutenants			
FOP 104	Deputies	90%/10%, $80 cap	90%/10%, $80 cap	90%/10%, $100 cap
PGO	MRDD	90%/10%, no cap	90%/10%, no cap	90%/10%, no cap
PGO	Children's Services	90%/10%, no cap	90%/10%, no cap	
Teamsters 957	Engineer's Office	90%/10%, no cap	90%/10%, no cap	90%/10%, $100 cap
DPSU	County employees (Full-time)	90%/10%, $80 cap	90%/10%, $80 cap	90%/10%, $100 cap
DPSU	County employees (Part-time)	90%/10%, $80 cap	90%/10%, $80 cap	90%/10%, $100 cap
DPSU	Public Defender	90%/10%, $80 cap	90%/10%, $80 cap	90%/10%, $100 cap
DPSU	Clerk of Courts	90%/10%, $80 cap	90%/10%, $80 cap	90%/10%, $100 cap
DPSU	Veteran Services	90%/10%, $80 cap	90%/10%, $80 cap	90%/10%, $100 cap

IV. Positions of the Parties on Open Issues

There are two issues at impasse between the parties. One involves wage increases; the other involves health insurance.[1] The parties' positions on both of these issues are set forth below.

[1] Actually, the health insurance issue has two components to it. One deals with a proposed change to the Eligibility and Coverage language of the contract and the other involves Premiums.

COUNTY'S POSITION – ARTICLE 26 WAGES

It is the County's proposal that the weight scales be increased by 1.5% in 2004, 2% in 2005, and 2.5% in 2006.

COUNTY'S POSITION – ARTICLE 30 HEALTH INSURANCE

The County proposes to maintain the current 90%/10% premium costs sharing approach to health insurance and to increase the employee cap, or maximum amount to be paid by the employee, for health insurance premiums. The new cap, effective July 1, 2004, will be $80 per month on the family plan, and on July 1, 2006, the cap would be increased to $100 per month.

UNION'S POSITION – ARTICLE 26 WAGES

It is the Union's position that wage increases during the life of the three year contract be as follows. Effective January 1, 2004, an across the board wage increase of 2.25%; effective January 1, 2005, across the board wage increase of 2.25%; and effective January 1, 2006, an across the board wage increase of 3%.

UNION'S POSITION – ARTICLE 30 HEALTH INSURANCE

SECTION 1 – ELIGIBILITY AND COVERAGE

The Union proposes that the language currently appearing in the collective bargaining agreement be altered to read as follows:

A. All full-time employees will be entitled to participate in the County's Group Health Program, provided that the County shall have the authority to control the costs of the health care benefit plans, unless otherwise provided in this Agreement, by establishing programs such as traditional commercial benefit programs, self-funded benefit administration programs, or a similar strategy that manage the costs of the provision of health care services, provided that programs established during the terms of this Agreement are generally comparable to those in existence on the effective date of this Agreement.

UNION'S POSITION – ARTICLE 30 HEALTH INSURANCE

SECTION 2 - PREMIUMS

The Union proposes effective January 1, 2004, the Employer will pay 90% of the premium costs for each health care coverage plan offered. The employee will pay 10% not to exceed $40 per month. Effective July 1, 2004, the Employer will pay 90% of the premium costs for each health coverage plan offered, and the Employer will pay 10% not to exceed $40 per month for single coverage, and not to exceed $80 per month for family coverage. In addition, the County will pay to each employee covered by this agreement $1700 in two equal installments of $850 each, the first upon execution of the contract, and the second in January 2005.

V. Discussion

As noted above, Fact-Finder Slonaker's Report and Recommendations was submitted to the undersigned by SERB along with an appointment letter. The Fact-Finding Report is to be considered by the Conciliator in analyzing the unresolved issues at Conciliation. The Recommendations provided should be given some amount of deference provided: (1) they are based essentially on the same facts presented at conciliation; (2) the recommendations are errors free; (3) they follow statutory guidelines; and (4) they represent sound reasoning in a collective bargaining context. See, OCSEA/AFSCME Local 11 and State of Ohio (Stein, May 22, 2003) Suffice it to say that the undersigned seriously considered the Fact-Finder's Report when formulating this Report and Award.[2]

[2] The undersigned also studied all of the parties' evidentiary submissions, as well as the other fact-finding reports and conciliation awards presented for review.

WAGES[3]

At the Fact-Finding hearing before Fact-Finder Slonaker, the Union sought a 5% base rate increase for each year of a three year contract. The Employer, on the other hand, was offering to settle the contract wage provision with the wage freeze in 2004, a 1% increase in 2005, and a wage re-opener in 2006. In addition, the County proposed that there would be no step movement. Fact-Finder Slonaker chose a position between the positions adopted by the parties for his recommendation. He recommended a 2.25% wage increase in 2004 for the bargaining unit members. Additionally, he recommended a 2.25% rate increase in 2005 and a 3% wage increase in 2006. Fact-Finder Slonaker calculated the yearly average cost of his recommendation to be $204,523.00. This calculation includes the actual wage increase costs, step increases, PERS on the increase, and Medicare on the increase. It does not, however, take into account the role up costs such as holiday pay or longevity pay.

Not surprisingly, at the conciliation, the Union adopted the Fact-Finder's position on the wages. The Union's proposal to solve the unresolved issue on wages is a 2.25% increase in 2004 (effective January 1, 2004); a 2.25% wage increase in 2005; a 3% increase in 2006.

The Employer altered its position between fact-finding and conciliation. The Employer's proposal on wage increases includes a 1.5% increase in wages effective 2004; a 2% wage increase effective 2005; and a 2.5% wage increase effective 2006. This proposal mirrors the Conciliation Award rendered by Conciliator Sandver in the Conciliation involving the Sheriff's Deputies. Fact-Finder Slonaker did not have the

[3] At the outset of the Conciliation hearing the minor differences between the parties with respect to longevity pay language were resolved. Therefore, the wage issue for resolution in this Report and Award is the question of wage increases.

benefit of Dr. Sandver's Conciliation Award when he considered the matter in February of 2004.[4] The Sheriff's Deputies are the group of employees with whom this bargaining unit's members are most closely aligned.

In support of its wage increase proposal the Union relies heavily upon the Fact-Finder's Report. The Union contends as long as the Report is well reasoned, the Conciliator is obliged to give it full deference. In other words, the Conciliator should not stray from the conclusions reached in the Report. In addition, the Union asserts that the County's claimed inability to finance the Union's wage proposal is specious.

The distilled essence of the County's rationale for adopting its wage proposal is three fold. First, the County contends that given the economic picture that reflects falling revenues and rising costs, it cannot fund the Union's proposal. The County can only afford minimum wage increases. The County recognizes that a Conciliator should give deference to a well reasoned and error free Fact-Finding Report. However, the County argues that deference should not be given to the Slonaker Fact-Finding Report because the Report does not satisfy that criteria and is infirmed. Finally, the County relies heavily on the Sandver Conciliation Award.

The Sandver Award resulted in the development of two additional internal comparables which the Fact-Finder did not have before him for consideration. The Sheriff's Deputies bargaining unit is the one County bargaining unit most closely aligned

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[4] The Union argues that Conciliator Sandver's Award is contrived. It is the Union's assertion that the parties agreed to the terms of the Award and the official Award captured the agreed to terms. Thus, the argument goes, the Sandver Award should carry little if any weight. Conciliator Goldberg, who addressed issues involving the OPBA (Sergeants and Lieutenants Unit) in Montgomery County Sheriff's Office, was faced with a similar argument from the Union. He dismissed the Union's argument in footnote 2 which appears on page 9 of his Conciliation Award and reads as follows: "The Union argues that this Award was a 'contrived' or negotiated settlement disguised as an independently arrived at Award. However, notwithstanding the manner in which this award was produced, it reflects the state of the facts. To the extent it was negotiated, both parties finalized their agreement with their eyes open, and otherwise negotiated the final terms with a view toward their own best interests.

with the subject bargaining unit. The Deputies received wages increases of 1.5% (2004), 2.0% (2005), and 2.5% (2006).

Likewise, the Sergeants and Lieutenants bargaining unit's wage increase is triggered by the Deputies increase. Therefore, the supervisors received the identical across the board percentage wages increase as the Deputies. The development of these comparables is significant and affects the undersigned conclusion on wage increases.

Moreover, virtually all of the other bargaining units in the County received lump sums in the first year of the contract or a percentage less than those received by the Deputies, Sergeants and Lieutenants. Clearly a pattern has developed in which the County and its Unions have deviated from the traditional 3% wage increase model.

In his Report the Fact-Finder dismisses the AFSCME bargaining unit as a valid comparison because it is a non-conciliation unit whose contract was settled near the Christmas holidays and as part of that settlement the Union received fair share for the first time. This Conciliator respectfully disagrees with the Fact-Finder on this point.

First of all, the Fact-Finder recognizes in his Report that the parties had a prior understanding that when the Union membership grew to 75% of the bargaining unit a fair share provision would be implemented. The threshold was achieved. To suggest that the AFSCME unit took a lesser financial settlement in exchange for fair share is unsupportable. Moreover, to suggest that a non-conciliation unit possesses less of a bargaining stature than a conciliation unit is an equally untenable conclusion. Finally, any suggestion that the AFSCME unit's bargaining capability was somehow compromised with the advent of the Christmas holiday season is unfounded.

The parties finalized their agreement with their eyes wide open. It must be concluded that the negotiations produce a contract that reflected each parties' best interests.

Not only does the undersigned have additional and different information before him for consideration with respect to internal comparables, the information received at the Conciliation hearing does not support two crucial findings made in the Fact-Finding Report. The record indicates that the Fact-Finder's calculation of the cost of the Union's wage proposal is understated. Additionally, the Conciliation record indicates that the County Administrator received a 3% salary increase in 2003, not 2004.

While the undersigned is not convinced that the County's economic picture is as bleak as painted by the County Administrator at the Conciliation hearing, the County did make the case for fiscal restraint. As a result, the County is focused on expenditure reduction; stated differently, the County is not risk adverse.

Revenues have dropped approximately 13 million dollars between the year 2000 and the year 2004. Nearly 8 million dollars of that lost revenue will have occurred between 2003 and 2004 if the budget projections are correct. While major components of the revenue stream remain steady, external factors (factors over which the County has no control) are poised to negatively impact the revenue stream.

The sales tax revenue is not experiencing significant growth, in large measure, because of the retail growth in the surrounding counties of Warren, Butler and Greene. Investment income has declined substantially and is not expected to grow in the near future. As noted above, the local government funds have been frozen and could be subject to further cuts or elimination as early as July of 2005. In addition, the percentage of County residents living in incorporated areas is currently 80.5284%. If this percentage should increase to 81%, the local government funds available to the County would be reduced by 5 million dollars.

In light of the new information developed as a result of the wage increases granted to the Deputies, Sergeants and Lieutenants, the other internal comparables and the need to demonstrate financial restraint, I find that on balance the County wage proposal reasonable.

AWARD: The County wage proposal is awarded.

> **Effective January 1, 2004 the bargaining unit shall receive a 1.5% wage increase.**
>
> **Effective January 1, 2005 the bargaining unit shall receive a 2.0% wage increase.**
>
> **Effective January 1, 2006 the bargaining unit shall receive a 2.5% wage increase.**

INSURANCE

The Fact-Finder recommended that the Employer continue to pay 90% of the cost of health care premiums and the employees bear 10% of the cost. He also recommended that the current cap of $40.00 on premium contribution be raised to $80.00 for family coverage alone effective July 1, 2004. In addition, Fact-Finder Slonaker called for the County to pay each bargaining unit employee $1700.00 (in two installments of $850.00) to offset the increase premium cost to the employees.[5] Finally, the Fact-Finder suggested

[5] Presumably this money would come from the Anthem "demutualization" monies realized by the County and kept in a separate interest bearing account.

that the parties alter the current contract language with respect to Eligibility and Coverage (Article 30, Section 1) to read as follows:

A. All Full-time employees will be entitled to participate in the County's Group Health Program, provided that the County shall have the authority to control the costs of the health care benefit plans, unless otherwise provided in this Agreement, by establishing programs such as traditional commercial benefit programs, self-funded benefit administration programs, or a similar strategy that manage the costs of the provision of health care services, provided that programs established during the terms of this Agreement are generally comparable to those in existence on the effective date of this Agreement.

The Union adopted the Fact-Finder's recommendations as its position at Conciliation.

At the Conciliation hearing, the Employer took the position that the current 90%/10% premium cost sharing formula continue and effective July 1, 2004 the cap on premium contribution for family coverage be increased to $80.00 per month. The cap would remain at $80.00 for the second year and increase to $100.00 in the third year. The County also opposed the Union's proposal to modify the Eligibility and Coverage language of the current Agreement and proposed to maintain the current language.

Sky rocketing health care costs present, perhaps, the single most difficult problem for parties to solve in collective bargaining. The County is paying an average of $3,384.00 per year for single coverage and $9,538.00 per year for family coverage. The average public employee in the Dayton area contributes $34.00 per month toward their health insurance premium for single coverage and they contribute $101.00 per month for family coverage according to SERB's Dayton Region analysis. It is an inescapable conclusion that employees need to share and help carry the heavy burden that the employers have carried. The employee contribution toward premiums will unquestionably increase during the term of a new collective bargaining agreement; it is just a matter of how much it will increase. However, before determining the employees' contributions to insurance premiums the proposed language change must be addressed.

ELIGIBILITY AND COVERAGE

As noted above the Union is seeking to modify the Eligibility and Coverage language that currently appears in the contract in an attempt to require the County to maintain benefits levels throughout the life of a new agreement. This restriction is being sought because in the 2003 plan year, the County, for the first time in ten years, instituted plan design changes to help control costs. These plan design changes increased out-of-pocket costs for the employees.

The proposed language vests authority to control the cost of the health benefit plan in the County by establishing "programs" and/or strategies, provided those programs are **"generally comparable to those in existence on the effective date of the agreement."** This proposed language change cannot be awarded.

There is an almost universal recognition that the increase in health insurance costs is the most difficult issue to control. The Employer must be free to bargaining with the health insurance provider with a full arsenal of ideas and options at its disposal. The proposed language provides the County with such ability, but because of the restrictive language, reduces that ability substantially. Further, if adopted for this bargaining unit, it could impact the County's ability to institute cost savings efforts with other County employees.

Moreover, the phrase "generally comparable to" is ambiguous and can become a playground for mischief and conflict between the parties. Every program change or strategy implemented during the term of a new agreement would be subject to challenge. The proposed change simply does not represent sound reasoning in a collective bargaining context. If one is going to restrict the County's authority to implement plan design changes, be more direct. For instance, adopt the language initially proposed by the Union in Fact-Finding.

AWARD: The Employer's proposal to maintain the current language is awarded.

PREMIUMS

As noted above, employees must bear some of the burden of the ever increasing rise in health care costs. The Deputies insurance premium formula as set forth in the Sandver Conciliation Award calls for the County to pay 90% of the premium cost and the Deputies to pay 10% of that cost with a cap of $80.00 on their contribution to premiums in 2004 and 2005. The employee contribution cap increases to $100.00 in July of 2006. This formula is consistent with every other bargaining unit in the County (that has finalized a contract), save the two Professional Guild units that do not have a cap on their contribution to premiums. (See, Chart page 11 above)

Applying the rationale that emerged in the wage analysis, an award of the Employer's position is dictated. Circumstances have changed since the Fact-Finding Report issued. The Sandver Award has issued. An even stronger pattern has emerged with respect to insurance premium sharing, in that the contribution levels as demonstrated by the internal comparables are virtually identical.

Moreover, the Employer's cap proposal of $80.00 (for family coverage) in the first two years of the contract and $100.00 (for family coverage) in 2006 compares favorably with the SERB Dayton Region numbers and local comparables referenced in the Fact-Finder's Report. The SERB Dayton Region numbers indicate the average public employee contributes $101.00 per month to premiums for family coverage. The local comparables suggests the amount of the contribution is $94.00 for family coverage. The Fact-Finder recognizes that his recommended cap of $80.00 for the life of the contract is "conservative" for the bargaining unit.

As a Conciliator, the undersigned is duty bound to issue an award by selecting between the two parties' proposals as identified at the conciliation hearing. With respect to Article 30, Section 2 the Union has proposed the following.

Effective January 1, 2004, the Employer will pay ninety percent (90%) of the premium costs for each health coverage plan offered and the employees will pay ten percent (10%) not to exceed forty dollars ($40.00) per month. Effective July 1, 2004, the Employer will pay ninety percent (90%) of the premium costs for each health coverage plan offered, and the employee will pay ten percent (10%) not to exceed forty dollars ($40.00) for single coverage and not to exceed eighty dollars ($80.00) for family coverage. In addition, the County will pay each employee covered by this agreement $1,700.00 in two equal installments of $850.00 each, the first upon the execution of the contract and the second in January 2005.

The Employer proposes that Section 2 reads as follows.

A. Commencing with the premium for July 1, 2004, the Employer will pay ninety (90%) of the premium costs for each health coverage plan offered and the employee will pay ten percent (10%) not to exceed eighty dollars ($80.00) per month for a family plan or forty dollars ($40.00) for a single plan.

B. Commencing with the premium for July 1, 2006, the Employer will pay ninety percent (90%) of the premium costs for each health coverage plan offered, and the employee will pay ten percent (10%), not to exceed one hundred dollars ($100.00) per month for a family plan or forty dollars ($40.00) for a single plan.

The undersigned has already determined that the Employer's proposal with respect to the caps is reasonable and should be awarded. Therefore, the Conciliator is obligated to award the proposal as presented. There is no discretion with respect to the $1,700.00 pay out.

AWARD: The Employer's proposal on premiums is awarded.

A. Commencing with the premium for July 1, 2004, the Employer will pay ninety (90%) of the premium costs for each health coverage plan offered and the employee will pay ten percent (10%) not to exceed eighty dollars ($80.00) per month for a family plan or forty dollars ($40.00) for a single plan.

B. Commencing with the premium for July 1, 2006, the Employer will pay ninety percent (90%) of the premium costs for each health coverage plan offered, and the employee will pay ten percent (10%), not to exceed one hundred dollars ($100.00) per month for a family plan or forty dollars ($40.00) for a single plan.

VI. **<u>Certification</u>**

This Conciliation Report and Award is based on the evidence and testimony presented to me at the Conciliation hearing I conducted on June 29, 2004.

Respectfully submitted,

Daniel N. Kosanovich
Conciliator
September 14, 2004

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Report and Award of Conciliation in the matter of Montgomery County and the Ohio Patrolmen's Benevolent Association was filed with the State Employment Relations Board by mail on September 14, 2004, and was mailed to:

Jonathan J. Downes
Downes, Hurst & Fishel
400 South Fifth Street
Suite 200
Columbus, Ohio 43215-5492

and

Joseph M. Hegedus
555 Metroplace North
Suite 100
Dublin, Ohio 43017

Respectfully submitted,

DNK

Daniel N. Kosanovich
Conciliator
September 14, 2004

N. Kosanovich, Esq.
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, Ohio 45429

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