

HAND DELIVERED

STATE EMPLOYMENT
RELATIONS BOARD

2009 MAR -4 A 9:10

**Before the State Employment Relations Board
State of Ohio**

In the matter of

City of Northwood
Employer

Case No. 08-MED-09-0941
08-MED-09-0942

And

Sandra Mendel Furman,
Fact finder

OPBA
Union

FACTFINDER'S REPORT

Procedural Matters

Pre hearing statements were received by the fact finder and served by each party upon the opposing party prior to the hearing. There has been substantial compliance with OAC rule 4117-9-05 (F).

The hearing was held on January 27, 2009 at the Northwood Municipal Building. The City and the Union had engaged in multi unit bargaining for both units represented by OPBA: dispatchers and patrol officers. The parties had engaged in good faith bargaining in preceding weeks. All issues were resolved except wages

A full hearing was had. The parties presented argument and exhibits in support of their respective positions. Gary McBride, Esq. represented the City. Also present on behalf of the City were Pat Bacon Administrator; Toby Schroyer Finance Director and Police Chief Thomas Cairl. The Union was represented by Attorneys Amy Zawacki and Justin Burnard. Union officers and members present were Mike Kutchenriter, Dave Buck and Scott Baker.

The report is submitted at the date and in the manner stipulated by the parties. (e transmission and US mail.)

Findings of Fact

1. The City of Northwood has multiple bargaining units. The FOP represents the sergeants in the police department. Ohio Council 8 represents the service and maintenance unit and the clerical/technical unit. The IAFF represents the firefighters.
2. OPBA represents the dispatchers (5 persons) and the patrol officers (12 individuals).
3. The OPBA has been the bargaining representative for many years. It was certified in 1996 for all full time police patrolmen. (SERB case no. 96-REP-07-0141) OPBA was certified in 1999 in Case No. 99-REP-04-0092 for all full time dispatchers.
4. Historically, similar but not identical wage and benefits have evolved for the City employees as a whole.
5. Currently, there is no joint bargaining except for the OPBA units.
6. The OPBA represents the first bargaining units to negotiate its agreements in the current negotiations cycle.
7. The City has the current ability to pay for the wage increase sought by the Union for the 2009 year.
8. No employees have been laid off to date.
9. The units generally consist of long term, experienced employees.¹ There were two new Patrol officers hired in 2008 due to promotions and retirements. The total number of unit employees remained stable.
10. The parties enjoy generally good labor relations. The current negotiations proceeded in a positive and cooperative manner.
11. The City recognizes the valuable contributions of its employees and stated that its employees are vital to the success of the City.
12. The contract when ratified will be retroactive to 1-1-09 by agreement of the parties.

¹ The parties reached tentative agreement on increased payouts for sick leave and vacation leave for long term employees.

13. *Wage increases recommended for the contract will be retroactive to the first full pay period in 2009, 2010, and 2011 per the parties' stipulated practice.*
14. *In 2008 the statewide wage increase averaged close to 3%.*
15. *Due to the date of the fact finding in January 2009 there is no trend yet discernable for 2009 wage increases.*
16. *Municipalities across the state are experiencing layoffs, furloughs and wage freezes due to loss of jobs. The state and counties are likewise experiencing shrinking revenues and layoffs. Some jurisdictions are experiencing mid term give backs.*
17. *Unemployment figures for 2008 were the highest in decades. Headlines for the Toledo Blade, the mass circulation paper for this area on the date of hearing discussed massive (70,000) job losses in seven large American corporations.*
18. *Northwood's major employers are related to the automotive industry, specifically Jeep Chrysler. All four local plants related to automotives have cut shifts and production dramatically since fall 2008. The plants are restoring some shifts in the near future but none will be operating at prior full shift levels.*
19. *The Waste Management operation within City limits has decreased revenues due to less competitive dumping fees.*
20. *Continuing uncertainty in the auto industry has the City administration unable to forecast responsibly about future revenues for the next several years.*
21. *Both parties agree that the local economy has been hard hit, especially in late 2008.*
22. *The national GDP dropped nearly 4% last quarter.*
23. *General Revenue Fund (GRF) revenues decreased; tax collections decreased and GRF expenditures increased in 2008.*
24. *Conservative City projections project 5.45% decrease in actual revenues in 2009.*

25. Current projections forecast a need to cut expenditures by 4.9% in 2009 based upon decreased revenues.
26. The Union points to the City's state of the city report which was optimistic about future growth opportunities in the area.
27. For jurisdictions in northwest Ohio it appears that Northwood *starting* wage rates for dispatchers are at the middle range to higher range per the City's comparables (City Ex 5). Dispatchers in at least one of the cited examples dispatch for multiple jurisdictions (e.g. Ottawa County Sheriff dispatchers receive a higher wage rate in 2008).²
28. For jurisdictions in northwest Ohio the Northwood dispatchers' ending wage rate is lower than all but one other jurisdiction per the City's comparables exhibit 5. As noted above certain unit employees in the City cited jurisdictions dispatch for multiple jurisdictions.
29. In the Union's comparables exhibit the Northwood's dispatchers wage rates are lower than other cited jurisdictions in a ten mile radius of the city.
30. For jurisdictions in northwest Ohio it appears that Northwood *starting* wage rates for Patrol Officers are at the middle range to higher range per the City's comparables. (City Ex 4).
31. For jurisdictions in northwest Ohio the Northwood Patrol officers' ending wage rate is in the mid range per the City's comparables chart. (City Ex 4).
32. In the Union's patrol officers wage comparison chart six of the ten listed jurisdictions receive higher wages than the Northwood police unit.
33. The city of Toledo and the City of Maumee both recently negotiated wage freezes. Maumee's wage freeze is for 2009 and 2010.³

² The parties' comparables were not defined by size of the units, population of the jurisdiction, economic base of the community or otherwise than geography.

³ City Exhibit 3. The units accepting the wage freezes are the AFSCME and IAFF units. The FOP unit was still negotiating at date of hearing. There was a lump sum payment in each of the first two years but at most the payment is equal to 2%. Lump sum payments do not compound and therefore do not enhance benefit computations for PERS.

34. Historical wage increases in the patrol unit were at the lowest 3.25% (2008) and 6% at the highest point. (2002).
35. Dispatcher wage increases paralleled the patrol officers.
36. Generally, the City has provided a 3.5% wage increase in the past 6-7 years with the lowest percentage being 3.25% and the highest, 9%.⁴
37. The City proposes 2.5% wage increase in 2009; a 2.25% increase in 2010 or a wage re opener; and a 2% increase in 2011, or a wage re opener.
38. The Union proposes a 2.85% increase in each year of the contract. It also proposes a one time "signing bonus" of .5%.
39. The Union further seeks a "me too" clause to protect its position in the event other units receive a better deal in bargaining down the road 18 months hence.
40. The City has never in the past agreed to a "me too" clause.
41. The City has not agreed to a signing bonus in the past.

ISSUE NO. 1. WAGES

The Union seeks a three year increase of 2.85% each year of the contract. It points out that it was reasonable and moderated its request below the 2008 state wide average. It states that although there are clear economic pressures in the economy the membership has been hard hit by inflation and the economic downturn as well. The Union points to the state of the City address which lists a number of businesses which located in Northwood in 2008.⁵ It indicates that northwest Ohio is planning to be a leader in solar panels which will put Northwood in a good position for the future.

The Union also seeks a me too clause. It notes that it settles its agreements 18 months before the other units. If the economy improves, it may be left behind other city workers. It points out that parity is a reasonable concept

⁴ 2005 was the year of 6% increases for non bargaining unit/administrative staff. The Mayor's secretary received a 9% wage increase in 2006.

⁵ The re were no details provided as to expected revenues or employment figures from these businesses. These ranged the gamut from filling stations, cyber cafes to CSX corporation.

for managing the workforce in a harmonious fashion. The City itself professes to have such a goal. However the City did not follow that principle in its last contract with the FOP. The command unit (sergeants) in the police department received a greater increase in its last round of negotiations. The Union cited morale issues *within the Police department due to this disparity in increases. The Union urges that a me too clause will be mutually beneficial to the parties.*

Finally, the Union seeks a signing bonus for 2009 in the percentage amount of .5%. It argues this is fair and reasonable in light of reduced wage increases and inflation. This one time payment will “ease the pain.” It also *addresses the disparate increase received last negotiations by the sergeants.*

The City counters that the Union’s request is unreasonable in light of the following:

- the layoff/shut down of shifts and manufacturing operations at its four largest local employers
- lack of any reasonable ability to project future income for 2009-2010 and 2011
- The City historically has never agreed to me too language. It treats each unit as unique with its own representation and its own concerns. It does support the concept of parity and does not strive to create hostility or rivalry between its groups of employees. It acts in good faith in bargaining each of its agreements.
- The signing bonus is not appropriate based upon past bargaining history, economic reality and on the equities.

The fact finder has taken into consideration relevant factors set forth in R.C. 4117.14 (C) (4) (e), and has followed the guidelines set forth in OAC 4117-9-05(J) and (K).⁶ Some of the listed factors were not relevant. Other factors had

⁶ The relevant factors to be considered are: past collective bargaining agreements; comparables as defined in the rules; public welfare and interest; ability to pay and administer; effect on public services; lawful authority of the employer; parties’ stipulations and other traditional factors related to bargaining.

no evidence or arguments in support presented in the record.⁷ The fact finder concludes that the dominant factors in this case are public interest and welfare, ability to pay, and the other traditional collective bargaining factors. These all coalesce in favor of a compromise position between the parties' disparate proposals.

The fact finder does not believe that the Union made a convincing case for me too language. The City and its unions are not on a synchronized schedule for bargaining. Economic realities in 2009 may not be present in months hence. The parties have not historically bargained significantly different packages. The fact finder is not willing to recommend a me too clause absent evidence of gross disparities between the units. Such a recommendation is not supported either in view of the lack of evidence of favoritism or partiality.

Regarding the matter of a .5% signing bonus similar concerns prevail. The inflationary aspect is present in all but the rarest of contract bargaining cycles. The parties are not so far past the expiration date of the prior agreement that a "reward" is the only equitable way to compensate them. There is no historical precedent between the parties for this type of provision. Although the union argument was made that the sergeants received a bump in 2008 the other city employees did not. The fact finder does not find sufficient evidentiary support for the signing bonus.

The fact finder acknowledges that the parties both have competing interests and both are cognizant of the uncertain times facing their area. There is a mutual desire to keep the wages competitive and yet not "break the bank". The City's proposal of a step down wage scale will likely make it difficult to recover lost ground should the economy improve in 2011 when the successor agreement will be negotiated. The Union's 2.85% suggested increase while modest by comparison to past years increases also fails to account for economic travails and uncertainties now extant in the area. It is again noted that jurisdictions throughout the state are experiencing wage freezes, wage cuts and layoffs.

⁷ In this case, the lawful authority of the public employer was not in dispute on any issue submitted to fact finding. The effect on public services was not in dispute on any of the matters submitted to fact finding. There were no stipulations presented.

Even if the City has limited surplus moneys carried over from 2008 use of that surplus for wage increases is not mandated by law, fiscal wisdom or compelling rationale present in the record.

The fact finder weighing all the required factors and the record as presented finds that fairness, stability and the public interest are best served by holding the City to a three year across the board increase of 2.5%. The Union made a persuasive case that re openers in either year two or three of the contract would serve neither party's interests. The fact finder concurs. Although 2.5% is less than the Union sought, it is more than the City expressed willingness to offer. In a tough and uncertain bargaining climate, the fact finder concludes that it represents the most reasonable resolution of the wage dispute.

Recommendation

**It is recommended that the parties approve the following language:
2.5% wage increase in each year of the contract, retroactive to the first pay period in each calendar year of the three year agreement.**

Respectfully submitted,

s/ Sandra Mendel Furman

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Certificate of Service

An original and true copy of the fact finder report were sent by ~~ordinary US mail~~ on the State Employment Relations Board, 65 East State Street, 12th floor, Columbus, Ohio 43215; on Justin Burnard/Amy Zalecki, Union Counsel and Gary McBride, Northwood counsel on this 24th day of February, 2009 . An electronic copy was also sent to the parties' representatives.

email
transmitted
on 3/4/09

s/Sandra Mendel Furman

Sandra Mendel Furman, Esq.