

State of Ohio  
State Employment Relations Board

In the Matter of the Fact-finding Between:

Norwood Firefighters  
IAFF, Local 445

And

City of Norwood

Case Number: 2009-MED-08-0805

Before Fact Finder: Floyd D. Weatherspoon

REPORT AND RECOMMENDATIONS OF THE FACT-FINDER

APPEARANCES:

FOR THE UNION

Rickie Paul  
President  
For Norwood Firefighters, Local 445  
4725 Montgomery Rd.  
Norwood, OH 45212

And

FOR THE CITY

Charles A. King  
Director of Labor Relations  
Clemans, Nelson & Associates, Inc.  
420 W. Loveland Ave., Suite 101  
Loveland, OH 45140

This fact finding arises pursuant to Ohio Revised Code Section 4117.14 between the International Association of Firefighters, Local 445 (Union) and the City of Norwood, (City), Floyd D. Weatherspoon was selected to serve as the impartial Fact Finder, whose report is issued below.

The Fact Finding Hearing was held on March 9, 2010. The parties identified the following as the only unresolved issue:

**Article 6 – Wages and Benefits**

The Ohio Public Employee Bargaining Statute sets forth the criteria the Fact Finder is to consider in making recommendations. The criteria are set forth in Rule 4117-9-05. The criteria are:

1. Past collectively bargained agreements, if any.
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, and the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standards 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 the public service or private employment.

## Issue

### **Article 6      Wages and Benefits**

#### Union Position:

The Union proposes a wage increase of 4% for 2010 and 4% for 2011. The Union contends that in accordance with the current contract language the parties were supposed to negotiate wage rates for 2010 and 2011 under a wage re-opener that was to commence in 2009. The Union maintains that the City did not bargain for wage increases in good faith. The Union further maintains that the City proposed a “take it or leave it” offer of a 3% wage increase for 2010 with a wage re-opener for 2011 wage rates. The Union maintains this violates the agreement since there was no proposal and the City didn't negotiate for 2011 wage rates.

The Union further maintains that a 4% increase in 2010 and 2011 is equitable and reasonable. The Union emphasizes that other City employees were given wage increases for 2010 and 2011. The Union also emphasizes that the union membership did not receive a wage increase in 2007 and received a 2% wage increase in 2008. The Union also stresses that, in an effort to help the City save money, it lowered its minimum manpower from thirteen daily members to twelve daily members. The Union states that this action helped to save the City hundreds of thousands of dollars in overtime in 2009.

The Union further asserts that the City is in a prosperous financial position where it can afford the wage increases proposed. To support this position, the Union points to statements by the Mayor that the City is in a stable economic state and statements from the City Auditor that the City's finances are doing well.

### City Position:

The City proposes a lump sum 3% payment for 2010 and that the wage rates for 2011 be negotiated in a wage re-opener to commence in November 2010.<sup>1</sup> The City contends that it asked for a wage re-opener because it knew that there would be a job loss of 1300 jobs by the end of the year from employers leaving the City of Norwood. They projected earnings taxes to be flat, however, the City contends that it now appears that the revenues are not going to be flat, because they are already down by \$100,000 so far this year. The City also contends that it is in fiscal watch and cannot get out of it.

The City contends that the funds are not in the budget to allow for the wage increase proposed by the Union. The City presented financial information from the City Auditor. The City Auditor, Joe Stith, stated that the State Auditor recommends that the City have a fund balance at the end of the year to meet expenses for the beginning of the next year. Mr. Stith stated that that recommendation ranges between 8-12% of the operating budget. Mr. Stith further stated that the City of Norwood has a codified ordinance which provides that the City should have a 10% carryover balance of the operating budget for the following year.

The City acknowledges that the financial reports establish that as of December 31, 2009, the City had \$2.1 million carryover. Mr. Stith stated that the \$2.1 million was not enough to meet the ordinance amount of 10%. He also states that the \$2.1 million that they had in December is gone.

### Discussion

The two primary criteria that will impact the recommendation of wages are: the City's ability to pay and the wages of comparable jurisdictions. Both parties submitted documentation that relate to these factors.

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<sup>1</sup> The fact-finder notes that the City's initial fact-finding proposal was a zero wage increase for 2010. However, at the fact-finding hearing, the City proposed a lump-sum of 3% for 2010.

The comparables support both positions. As an internal comparison, the Union emphasizes that the current budget already includes a 3% increase across the board for all city employees for 2010. The Union further provides the current labor agreement between the City and the Norwood Police Division. In 2009 the police received a 4% raise, in 2010, they received a 3% raise, and in 2011, the police will receive a 2.5% raise. This supports the union's position that its request for a raise is reasonable.

The City provides a local comparison of the Norwood police and fire raises. The City states that the Fire Division received a 4.25% higher increase than the Police over the years. The Union says this was to keep the Fire Division in line with the Police Division.

The external comparables provided by the City, include Southwest Ohio with a population range between 15,000 to 25,000. The comparison demonstrates that in most classifications, the City of Norwood has higher wages than most other jurisdictions. However, the internal comparison establishes that the City has given other bargaining units raises for 2010 and 2011. Nevertheless, the budget must allow for a wage increase.

In support of its position that there are no funds available for a wage rate increase in 2010, the City relies on financial reports and information provided by the City Auditor. Initially, Mr. Stith explains that the 2.1 million carryover from 2009, is not extra money that is available to be spent, but it represents funds that are necessary to operate within the 2010 budget. Mr. Stith further explains that it is the money used to meet January's operating expenses and payroll. The City provides a Monthly Tax Revenue Earnings Graph (Attachment 1), which shows the monthly earnings from tax revenue. The City projects that the revenues in 2010 will actually be less than the total 2009 collected revenue, because of a spike in April 2009 revenue earnings, due to a one-time payout that is not expected to repeat in 2010. However, the City expects that the expenses for 2010 to increase due to contractual payroll increases and an increase in health care costs. The City presents its 2009 revenue vs. expenses graph (Attachment 1, pg 2), which establishes that the 2009 revenue almost equaled the 2009 expenses.

The City contends that since the 2010 revenue is projected to be less and the 2010 expenses are expected to be more, it will have to use a portion of the carryover to meet the baseline expenses.

To further support its position that revenues are down, the City maintains that it has sustained job loss and revenues from employers leaving the city and it anticipates that the job loss will continue in 2010. The City contends that Medpace, one of its largest employers, will be moving out of the city by the end of 2010. Medpace is a pharmaceutical research company located in Norwood that employs approximately 600 employees.

The Union counters that Medpace is not leaving the city in 2010. In support of this position, the Union relies on Joe Jones, Secretary of Local 445. Mr. Jones stated that he inspects Medpace. Mr. Jones further stated that Medpace is currently operating at full capacity and he spoke to a representative which indicated that Medpace would start the phase out process in 2013. The Union further submits an article (Union 1), which the Union maintains says that Medpace will move its current 600 employees from Norwood by 2014.<sup>2</sup>

The City has provided sufficient evidence that it has lost several big businesses in the last several years. The City provided articles from the Business Courier stating that several companies have moved from Norwood, including, Zumbiel (400 jobs), Siemens (25% of work force), Convergys (250 jobs), U.S. Playing Card (400 jobs), which has caused it to suffer a severe job loss. The City also demonstrated that when individuals leave withholding tax revenues decrease. Therefore, the City has legitimate concerns that if Medpace leaves in 2010, its revenues will continue to decrease.

However, the Union has presented evidence that Medpace may not move in 2010. The Union has also presented evidence that new businesses have come into Norwood. Although, the evidence also suggests that the new jobs will in no way compare to what the City will lose with Medpace. In any

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<sup>2</sup> The City maintains that the article does not state that the current 600 employees will be moved by 2014, rather 760 new jobs will be added by 2014.

event, any impact on the 2010 revenues due to Medpace's anticipated leave, is merely speculation at this point. The revenue projections are not based on new business coming into Norwood, or existing business leaving Norwood. Indeed, Mr. Stith testified that the 2010 revenue projections didn't account for businesses moving out of Norwood or new businesses coming into Norwood. The Fact-Finder has to rely on the 2010 projected revenue data and not speculation in making his recommendation.

The Union acknowledges that the \$2.1 million is not in the budget anymore. However, the Union states that there is still \$700,000 in the budget, therefore the City can afford the raises. In support of its position that there is still \$700,000 the Union points to an article wherein, the Union contends that the Mayor states that there is a \$700,000 cash reserve. The article presented by the Union supports the Union's position that the Mayor represents that the City has a cash reserve. However, Joe Leers, Safety/Service Director explained that the Mayor was referring to an economic development fund that has \$750,000. Mr. Leers explained that this is different than a carryover or a surplus.

The City put forth evidence that the revenue projections were down as of February. However, the evidence demonstrates that the budgeted projections included a 3% raise across the board for all city employees for 2010. Moreover, Mr. Stith stated that, with the raises included, the City should have a carryover balance of \$775,000 at the end of 2010.

#### Recommendation

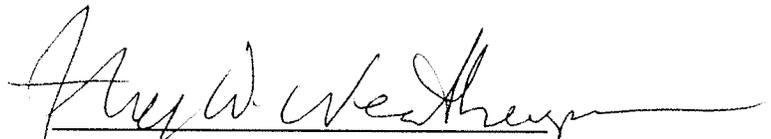
A 3% wage rate increase for 2010 and a 2.5% wage rate increase for 2011. There are no 2011 projections on the record. Even though the City provided evidence that the expenses for 2010 will increase, while the revenues will likely decrease, the evidence establishes that the City expects a carryover of \$775,000 at the end of 2010. The fact-finder is not viewing this as a surplus, however, the City stated that carryover is needed to meet operational expenses. The evidence also demonstrates that payroll is an operational expense. Moreover, the Union provided evidence that the Police Division is receiving a wage rate increase of 2.5% in 2011.

After giving due consideration to the positions and arguments of the parties and to the criteria enumerated in ORC Section 4117.14, the Fact Finder recommends the provisions as provided herein.

Respectfully submitted and issued this 8th day of April 2010.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing Fact Finders Report was served by regular U.S. Mail upon Ricki Paul, 4725 Montgomery Rd., Norwood, OH 45212, President of the Union, IAFF, Local 445, and Charles A. King, Director of Labor Relations, Clemans, Nelson & Associates, Inc. 420 W. Loveland Ave., Suite 101, Loveland, OH 45140 and J. Russell Keith, General Counsel & Assistant Executive Director, Bureau of Mediation, State Employment Relations Board, 65 East State Street, 12th Floor, Columbus, Ohio 43215-4213 on this 8<sup>th</sup> day of April, 2010

  
Floyd D. Weatherspoon  
Fact Finder