

IN THE MATTER OF FACT-FINDING
BETWEEN

CITY OF NORTH OLMSTED)	CASE NOS. 10-MED-09-1048
)	10-MED-09-1049
AND)	10-MED-09-1050
)	
)	<u>FINDINGS</u>
FRATERNAL ORDER OF POLICE)	AND
OHIO LABOR COUNCIL, INC.)	<u>RECOMMENDATIONS</u>

JAMES M. MANCINI, FACT-FINDER

APPEARANCES:

FOR THE FOP

Lucy DiNardo
FOP Staff Representative

FOR THE CITY

Gary C. Johnson
Attorney at Law

STATE EMPLOYMENT
RELATIONS BOARD
2011 FEB 14 A 10:04

SUBMISSION

This matter concerns fact-finding proceedings between the City of North Olmsted (hereinafter referred to as the Employer or City) and the Fraternal Order of Police, Ohio Labor Council, Inc. (hereinafter referred to as the Union or FOP). The State Employment Relations Board (SERB) duly appointed the undersigned as fact-finder in this matter. The fact-finding proceedings were held on January 3, 2011.

The fact-finding proceedings were conducted pursuant to the Ohio Collective Bargaining Law as well as the rules and regulations of SERB. During the fact-finding proceeding, this fact-finder attempted mediation of the issues at impasse. The issue remaining for this fact-finder's consideration is more fully set forth in this report.

There are three bargaining units involved in this fact-finding proceeding. This case involves all full-time Patrolmen, Sergeants, Lieutenants, Captains, and Corrections Officers. There are currently thirty-two patrolmen, twelve sergeants and lieutenants, and one corrections officer employed by the City in its Police Department.

This fact-finder in rendering the following findings of fact and recommendations on issues at impasse has taken into consideration the criteria set forth in Ohio Revised Code Section 4117(G)(6)(7). Further, this fact-finder has taken into consideration all reliable evidence presented relevant to the outstanding issue before him.

The Union in its pre-hearing statement requested a wage increase as well as an increase in the rank differential. However at hearing, the Union agreed to withdraw these

two issues. As a result, the sole remaining issue for consideration by this fact-finder concerns furlough days as more fully discussed herein.

FURLOUGH DAYS

The Union proposes to eliminate the thirteen unpaid furlough days beginning in January 1, 2011. The City opposes any change in the existing thirteen furlough days which had been agreed upon by the parties for 2010. The parties' Contract contains a reopener effective November 1, 2010 for the purposes of negotiating wage rates and furloughs for the 2011 calendar year. It is pursuant to this reopener that the Union submits its proposal to eliminate the thirteen furlough days.

The Union contends that the City's finances have improved to such an extent that there is no longer any justification for imposing thirteen unpaid furlough days on bargaining unit members in 2011. The Union points out that the City began 2010 with a carryover balance of about 1.1 million dollars. This was considerably more than projected by the City's Finance Director who had indicated that the carryover balance would only be about \$30,000 at the start of 2010. Moreover as the Finance Director acknowledges, the City will end 2011 with a carryover balance of about 1.7 million dollars. Because the City had significant carryover balances both at the beginning and end of 2010, there does not appear to be any financial justification for the City requesting

bargaining unit members to continue to take furlough days for the current year. The thirteen unpaid furlough days previously imposed for 2010 should be eliminated.

The Union also points out that besides agreeing to thirteen unpaid furlough days, there was no wage increase in 2010 for bargaining unit members. Additionally, all firearms proficiency pay which amounts to \$1,400 per year was suspended through December 31, 2011. All clothing allowances which amount to \$1,350 per officer and \$725 for corrections officers were also suspended through the end of 2011. The FOP maintains that when all of these other reductions in compensation are considered together with the thirteen unpaid furlough days, bargaining unit members suffered a significant reduction in pay which averaged about 12.6%. Such a drastic reduction in pay for bargaining unit members is no longer justified.

The FOP further contends that it made the various pay concessions in 2010 predicated upon the City's indication that there would be no layoffs. However, the City implemented layoffs in 2010 which included the elimination of one captain and two patrol officer positions. Another patrolman has submitted his retirement papers for February of this year. The cost savings which the City will achieve by the elimination of four positions in the department once again supports the FOP's contention that imposing thirteen furlough days on the remaining officers is no longer warranted.

The City opposes any changes in the existing furlough day provision in that its finances have not materially improved from 2009 through 2010. Although the ending General Fund balance for 2010 is expected to be about 1.7 million dollars, this is still less

than prior year-end balances such as the 2.1 million dollar balance at the end of 2007. Moreover, total revenues for 2010 will be about 18.5 million which is less than the revenues received for 2009. Income tax receipts, which accounts for about 70% of General Fund revenue, will be about 8.4 million dollars in 2010 which is less than municipal income tax revenue for 2009. As a result, the City must still attempt to achieve cost savings wherever possible until it gets back on sound financial footing.

Moreover, the City anticipates that it will suffer a reduction in revenue which it receives from the State of Ohio of about \$600,000 for the current fiscal year. It has been indicated to the City's representatives that the state could actually cutback the entire amount which it provided in local government aid for 2011. In effect, almost 1.2 million dollars could be lost in general revenue from the state for the current fiscal year. This once again demonstrates that any change in the furlough days for this bargaining unit at this time would be totally inappropriate.

The Employer also points out that the only reason its budget appears to be in better condition than in 2009 is due to the 2010 "give backs" negotiated with the various unions. There were also reductions in staff which totaled ten for the police, firefighters and service departments. Also, all other bargaining units agreed to take furlough days in order to avoid further layoffs. The City disputes the percentage pay cuts which the bargaining units involved here took as a result of the furlough days. According to the City, those reductions in pay for patrolmen, sergeant, lieutenant and the captain averaged about 10%. Because of the uncertainty facing the City of North Olmsted due to the

current recession, any change in the number of furlough days at this time would be unreasonable.

ANALYSIS – This fact-finder upon review of the evidence and arguments presented by the parties recommends that there be eight unpaid furlough days for the bargaining unit members for 2011. The evidence showed that the City's finances have shown improvement so that there is no longer any justification for retaining the thirteen unpaid furlough days which were in effect for the employees in 2010. On the other hand, the complete elimination of all thirteen unpaid furlough days at the current time would be unreasonable given the economic uncertainties which continue to exist as well as the possibility that the City could suffer a reduction in local government aid from the State of Ohio.

First, the evidence establishes that the City's year-end General Fund balance increased significantly from 2009 to 2010. At the end of 2009, the City had a General Fund balance of approximately 1.1 million dollars. However the City's Finance Director acknowledged that at the end of 2010, the General Fund balance will be 1.7 million dollars. This relatively healthy carryover balance of 1.7 million dollars into 2011 supports a recommendation for a reduction in the number of furlough days.

Moreover, this fact-finder has taken into consideration the fact that three positions have been eliminated through layoff in the police department. This would include one captain and two patrol officers being laid off. In addition, another patrolman has submitted his retirement papers to be effective in February of the current year. As a

result, the City will achieve cost savings by having four positions eliminated in the police department which will serve to offset the costs involved in eliminating five furlough days for bargaining unit members.

In determining that there should be a reduction in the number of furlough days from the current thirteen days to eight days, this fact-finder has also taken into consideration the fact that the Union agreed that there is to be no wage increase for bargaining unit members in 2011. The Union had initially proposed a 3.5% general wage increase for the bargaining unit for the current year but at the hearing withdrew that proposal. The City will stand to gain by not having to provide officers with a wage increase in 2011. Additionally, the Union agreed to other concessions for 2011 including suspending all clothing allowances and firearms proficiency pay through the end of the year. For those assigned to the second and third shifts, they gave up their shift differential of \$.75 per hour. The City will continue to achieve cost savings from these other concessions which the Union previously agreed to for 2011. Given the other concessions which will remain in effect until December 31, 2011, as well as the favorable carryover balance in the City's General Fund, this fact-finder finds that it is reasonable to reduce the number of furlough days to eight days for 2011.

Although this fact-finder has determined that there was a sufficient basis established for reducing the number of furlough days for the current year, the evidence also showed that the City's finances are still being impacted by the economic downturn which has occurred. As a result, the City's income tax revenue for 2010 of about 8.4

million dollars was still below that which the City received in 2009. Income tax revenue is the main source of revenue for the City's General Fund.

Moreover, the Finance Director testified that there could be certain decreases in other forms of revenue for the current year. In particular, there is an indication that local government funding from the state could be reduced for 2011. Based on preliminary statements from the state, a decrease in state funding of about 25% or \$300,000 is expected. In addition, certain expenditures are expected to increase significantly such as that needed for the Workers Compensation Fund. As a result, the City anticipates that the year-end balance in the General Fund could be less than the carryover balance from 2010.

When the complete picture of the City's finances both for 2010 and the current year are taken into consideration, it becomes apparent that it would be inappropriate at this time to completely eliminate all of the thirteen furlough days as proposed by the Union. The evidence shows that the City has legitimate financial concerns for 2011 due in part to the uncertainty surrounding the amount which will be received in local government funding from the state. Moreover as attested to by the Director of Finance, municipal income tax revenue still has not recovered to the point where it was prior to the current recession. As a result given the economic uncertainties which continue to exist, this fact-finder must find that it would be inappropriate to completely eliminate the thirteen furlough days which were in effect in 2010. It would be more reasonable under the circumstances presented to reduce the number of furlough days to eight days for 2011.

RECOMMENDATION

It is the recommendation of this fact-finder that with respect to the furlough day issue there is to be a reduction in the number of furlough days to eight days for 2011.

FURLOUGH DAYS

Beginning January 1, 2011, all employees shall take eight (8) furlough days during the calendar year 2011.

CONCLUSION

In conclusion, this fact-finder hereby submits the above referred to recommendation on the outstanding issue presented to him for his consideration.

FEBRUARY 9, 2011



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February 9, 2011

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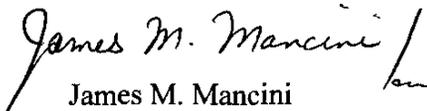
RE: Case Nos. 10-MED-09-1048
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City of North Olmsted
-and-
FOP/Ohio Labor Council, Inc.

Dear Mr. Keith:

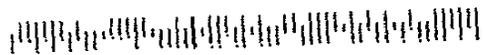
Enclosed herewith is my fact-finder's Findings and Recommendations in the above referred to matter.

Thank you.

Very truly yours,


James M. Mancini

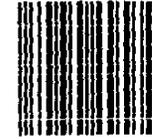
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Enclosure



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