

STATE EMPLOYMENT RELATIONS BOARD
COLUMBUS, OHIO

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IN THE MATTER OF FACT FINDING :
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BETWEEN :
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THE CITY OF NORWOOD, OHIO :
:
-AND- :
:
INTERNATIONAL ASSOCIATION :
OF FIRE FIGHTERS, LOCAL NO. 445 :

REPORT OF THE FACTFINDER

SERB CASE NUMBER: 99-MED-07-0621
BARGAINING UNIT: Approximately forty-three (43) sworn Employees of the City's Fire Department.
MEDIATION SESSION: August 27, 1999; Council Chambers, City of Norwood, Ohio.
FACT FINDING PROCEEDING: September 7, 1999; Council Chambers, City of Norwood, Ohio.
FACT FINDER: David W. Stanton, Esq.

APPEARANCES:

FOR THE EMPLOYER

Robert W. Windle, Labor Relations
Consultant
Mark R. Pottebaum, Director of Safety
Joseph Hochbein, Mayor

FOR THE UNION

Rick Paul, President
George Schneider, Vice President
Tim LeFevers, Secretary
Rick Evans, Treasurer
Thomas D. Malony, Negotiations
Team Member
Brett Cartuyvelles, Negotiations Team
Member
Mike Montgomery, Negotiations Team
Member

ADMINISTRATION

By correspondence dated August 5, 1999, from the State Employment Relations Board, Columbus, Ohio, the Undersigned was notified of his mutual selection to serve as Fact Finder to hear arguments and issue recommendations relative thereto pursuant to Ohio Administrative Code Rule 4117-9-05(j); and, (k), in an effort to facilitate resolution of this issue that remained at impasse between these parties. The impasse resulted after numerous attempts to negotiate an amicable resolution to "Minimum Manning" Issue subject to the Re-opener proved unsuccessful. By document dated June 28, 1999, titled "State Employment Relations Board Notice", the Union advised the Employer of its intent to re-open Article XVII, titled "Minimum Manpower," thereby placing the Employer on notice of it's intent, pursuant to Paragraph C. of Article XVII, to re-open the issue of "Minimum Manpower," for purposes of increasing that consideration after January 1, 1998." Paragraph C thereof states specifically:

- C. The I.A.F.F. reserves the right to re-open the issue of Minimum Manpower for the purpose of increasing the MMP level after January 1, 1998.

As the Record demonstrates, these Parties have met to engage in collective bargaining on several occasions prior to these proceedings, most recently without the assistance of the Fact Finder on July 30, 1999, however, that session did not result in resolution of this issue remaining at impasse. The Fact Finder met with these Parties on August 27, 1999, wherein the Parties engaged in mediation with the assistance of the Fact Finder concerning the "Minimum Manpower" issue subject to the Re-opener. However, it became apparent that no resolution thereto would be obtained during that session. The

Fact Finder advised the Parties that the Fact Finding proceeding would be scheduled on September 7, 1999, wherein prior thereto, the Fact Finder again engaged in one final attempt to mediate resolution of the “Minimum Manpower” issue. Unfortunately, the Parties were unsuccessful in reaching resolution to this issue and the Fact Finding proceeding commenced thereafter. During the course thereof, each Party was afforded a fair and adequate opportunity to present testimonial and/or documentary evidence supportive of positions advanced. The Fact Finder offered the Parties the opportunity to provide a written summation at the conclusion of the Fact Finding proceeding which was declined. The evidentiary Record in this proceeding was subsequently closed at the conclusion of the Fact Finding proceeding and the issue subject to the Re-opener concerning Article XVII, titled “Minimum Manpower,” that remains at impasse, is the subject for the issuance of this Report hereunder.

The following findings and recommendation is hereby offered for consideration by these Parties and was arrived at based on their mutual interests and concerns; and, is made in accordance with the statutorily mandated guidelines set forth in Ohio Administrative Code Rule 4117.9 which recognizes certain criteria for consideration in the Fact Finding process as follows:

- (1) Past collectively-bargained agreements, if any, between the Parties;**
- (2) Comparison of 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 affect of the adjustment on a normal standard of public service;

- (4) The lawful authority of the Public Employer;**
- (5) Any stipulations of the Parties; and,**
- (6) Such other factors not confined in 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.**

I. THE BARGAINING UNIT DEFINED; ITS DUTIES AND RESPONSIBILITIES TO THE COMMUNITY; AND, GENERAL BACKGROUND CONSIDERATIONS

The Collective Bargaining Agreement between the International Association of Fire Fighters, hereinafter referred to as the “Union” and/or the “IAFF,” Local 445 and the City of Norwood, Ohio, hereinafter referred to as the “City,” and/or “Employer,” has, in Article XVII, language titled “Minimum Manpower.” More particularly, Paragraph C. thereof, states as follows:

The IAFF reserves the right to re-open the issue of ‘Minimum Manpower’ for the purpose of increasing the MMP level after January, 1998

By document titled, “Notice to Negotiate,” Rick Paul, President of Local 445 on behalf of the Union, served notice upon the Employer dated June 28, 1999, concerning it’s intention to reopen the Parties’ Collective Bargaining Agreement to address increasing the MMP level following the January 1, 1998, time frame.

As the Record demonstrates, the Bargaining Unit represented by the IAFF, Local 445 consists of approximately forty-three (43) sworn Employees of the City’s Fire

Department. Article I, titled “Recognition,” of the Parties’ Collective Bargaining Agreement indicates in the following language the precise definition of the Bargaining Unit as set forth therein as follows:

For the contract period January 1, 1997, through December 31, 1999, and for a continuing period thereafter, unless Fire signators or City signators give written notice of their intention to repudiate this clause, the City agrees to recognize Local Union 445, International Association of Fire Fighters, as the exclusive Bargaining Agent with exclusive bargaining rights for all sworn Employees of the Norwood, Ohio Fire Department, except for it’s Chief.

*** * * ***

As is obvious, based on the type of unit presented herein, the Employees provide fire suppression, EMS, emergency and other services for the City of Norwood and is considered under statutory considerations as “Strike-prohibited Employees” under 4117.14(D).

The Fact Finder is required to consider comparable Employee units with regard to their overall make-up and services provided to the members of their respective community. Both Parties have relied upon comparables of other municipalities and jurisdictions concerning” comparable work” provided by this Bargaining Unit and, as is typically apparent, there is no “on point comparison” relative to this Bargaining Unit concerning “Minimum Manpower” considerations. Whatever similarities that may exist must be taken into consideration by the Fact Finder based on the above-noted statutory criteria. It is, and has been, the position of this Fact Finder that the Party proposing any deviation, deletion or modification of the current language or of the *status quo* bears the burden of proof and persuasion to compel the change proposed. Failure to meet that burden will result in a recommendation that the Parties maintain the *status quo* practice or current

language.

During the course of the Mediation session as well as the Fact Finding proceeding, much discussion ensued relative to the number of Employees currently staffed at the Fire house. It was noted that the City has reduced the number of Fire stations from three (3) to one (1) now and currently there were some Employees that were off work due to various reasons. The current "Complement" number was below that as set forth in Appendix "A," titled "Table of Organization and Complement," which provides for the complement of forty-six (46) Members of the Norwood Fire Department. As was indicated to the Parties, the Arbitrator's jurisdiction was confined to consideration of Article XVII, titled "Minimum Manpower," that was subject to the Re-opener. Whatever reduction existed at the time of the Mediation and/or Fact Finding proceeding, was beyond the jurisdictional boundaries for consideration by the Fact Finder. According to the Union, there are now currently forty-three (43) Fire Fighters.

The City of Norwood, Ohio is unique not only in it's jurisdictional boundaries, but also with respect to the type of housing and structures that exist therein. Much discussion ensued relative to the "balloon-type" construction of many homes that, if re-built, would not meet fire code regulations today. The Union indicated, based on the structural content of many of the facilities within the City, that there was a greater likelihood of a fast, expanding fire, given the proximity of the houses as well as the manner in which they were constructed. Several comparables were relied upon by the City concerning the population as well as geographical boundaries of the City. It is important to note that the City of

Norwood is comprised of approximately 3.1 square miles, has a population of approximately 21000 and has much housing constructed prior to the 1940's time frame. Many of the comparables relied upon by the City are agricultural in nature. Even though the population is comparable in number, the geographical limits within which the citizens reside, is more expansive, suggesting to the Fact Finding that, indeed, those could be more agricultural in nature. As indicated by the Union, it takes a great deal more manpower as well as equipment to respond to fires wherein the structures are in close proximity as opposed to responding to a fire that may occur in a field or some other area that does not have as dense a population per square mile as does the City of Norwood.

As indicated by and between the Parties, the concept of "Minimum Manpower," has its genesis relative to, unfortunately, the death of a Fire Fighter in June of 1980. Following that tragic event, the Parties insightfully negotiated language which would address this consideration. The concept itself requires a minimum number of certified Fire and Emergency Medical Personnel to be on duty on the twenty-four (24) hour shift to provide fire and medical services to the citizens of this community which, while doing so, impacts upon certain safety factors to the personnel providing these services. Numerous documents were provided to the Fact Finder including a video tape concerning the types of equipment used and the "safe" number of personnel necessary to man those pieces of equipment during any given fire and/or emergency situation.

The Record demonstrates further that the City of Norwood lost its largest Employer which had an ultimate, significant impact on its tax base when GM closed its door in 1987. The 1986 Collective Bargaining Agreement provided for a number of fifteen

(15) “Minimum Manpower” personnel that was reduced in the following year’s Contract to twelve (12) and eleven (11) by the end of the Contract to address the City’s dire financial considerations based on the closure of General Motors. That number was further reduced in 1994 to ten (10) to further address the City’s financial situation. As the Record demonstrates, in January of 1998, these Parties negotiated an increase to the “Minimum Manpower” Article to eleven (11) from ten (10) that was previously provided

POSITIONS OF THE PARTIES

UNION POSITION

As indicated by the Union’s Bargaining Team, Fire Fighters today are faced with increasing dangers at the fire scene with the increased use of synthetics with the smoke and chemicals produced therefrom being more toxic; and, blood-borne pathogens while also providing hazardous chemical response. The National Fire Protection Association Rule 1500 and the Occupational Safety and Health Administration have provided for certain regulations concerning the manner in which Fire Fighter personnel discharge their duties.

As indicated, the OSHA “two in - two out” Rule requires:

Any time Fire Fighters are inside a space that has a oxygen-deficient or contaminated atmosphere, including burning buildings, they are in a space with an atmosphere that is immediately dangerous to life and health. Any one entering an IDLH must work in teams of at least two (2) and there must be another two (2) person team outside the space, but immediately available and properly equipped to enter in case the first team needs assistance or rescue.

The National Fire Protection Association Rule 1500(6-5),” Rapid intervention for the rescue of Members”, requires the Fire Department to provide personnel for the rescue of Members operating at emergency incidents if the need arises and a crew shall consist of

at least two (2) Members. That also requires a minimal acceptable fire company staffing level of four (4) Members responding or arriving with each engine and each ladder company responding to any type of fire.

As indicated by the Union, this City staffs two (2) engine companies; one (1) ladder company and three (3) medic units. The engine companies are staffed by one (1) Officer; one (1) Engineer and one (1) Plug Man, who is also assigned to the second or third medic units as is the engineer of Engine 282. The ladder company is staffed with one (1) officer and one (1) engineer/ATO. In the event the two (2) medic units are out on other runs, which represented approximately 1,053 occurrences in 1998, the Fire Department responds with E82, consisting of three (3) men; E282, consisting of two (2) men; and, L82, consisting of two (2) men, for a total Fire Fighter number of seven (7) responding to these types of instances. If three (3) medic units are out on other runs, which occurred 133 times in 1998, they respond with E82, consisting of two (2) men; E282, consisting of one (1) man; and, L82, consisting of two (2) men, for a total Fire Fighter number of five (5). It notes that these five (5) individuals must ventilate, search for and rescue occupants confined and extinguish the fire while one (1) man operates the pumps and another hooks to the hydrant. Even in the best case scenario, it is below the four(4) man companies recommended by the NFPA.

For 1986, when the "Minimum Manpower" requirement was fifteen (15) and the Department manning number was sixty (60), the Fire Department had a total of 3,491 runs. In 1988, that number for "Minimum Manpower" was eleven (11) to twelve (12) with fifty-two (52) complement and a total run number of 3,680. In 1995, the "Minimum

Manpower” was further reduced to ten (10) and the complement reduced to forty-six (46), with the number of runs increasing to 4,347 and, based on 1999, when the “Minimum Manpower” was increased in January to eleven (11), the Department was currently staffed with forty-three (43) Employees and the run total, based on 1998 numbers, was 4,533. The Union notes that the City of Cincinnati has implemented a four (4) man engine and ladder company due to the requirements of the “two in - two out” rule of OSHA and the NFPA Rule 1500 RIT team guidelines.

The Union provided a video tape and noted authorities, including the International City Managers Association, recognizing the need for more manpower and larger companies to increase efficiency and lower job-related injuries. The” City Manager’s Handbook” states that five (5) man companies are 100% efficient, while four (4) are 65% efficient; and, three (3) are 38% efficient. The Union notes that it currently operates with two (2) or three (3) men companies, cutting efficiency and claims that it is endangering member’s lives.

CITY POSITION

The City emphasizes that effective January 1, 1994, the “Minimum Manpower” level for the Fire Department was established at ten (10) full-time Fire Fighters and EMS personnel. Such remained at that level until January 1, 1999, wherein the Parties agreed to increase that to eleven (11) by adding one (1) additional Fire Fighter per shift for a total of three (3) additional Fire Fighters.

As indicated in the evidentiary packages presented by the Parties, it notes that the City of Norwood is party to a “Mutual Assistance Contract” with other Fire Departments within Hamilton County. Stated therein, the Parties to that Agreement agree to “unite by

Contract for the purpose of rendering mutual aid, assistance manpower and equipment to each other in the even of emergency situations arising within their individual jurisdiction wherein their own manpower and equipment is deemed inadequate”.

The City emphasizes that an increase of the “Minimum Manpower” requirement was by a 10% margin to the current level and to increase it even more, as proposed by the Union, to 15 as recommended in the Fact Finding proceeding, would not only adversely affect the City’s budget, but would also diminish the level of services it is capable of providing given the financial burden such an increase would create. It has proposed to increase the number of full-time Fire Fighters, but the not the “Minimum Manpower” requirement of Article XVII. It has agreed and offered to increase the number of Fire Fighters; i.e., the “Complement” by an additional six (6) Fire Fighters or two (2) per shift contingent upon the “substantial completion” of two (2) office/retail developments that are expected to be completed in the next 1 ½ - 2 years. It indicates that it’s proposal is realistic based on the Employee’s needs for time off; and, to better manage and control overtime, which is both costly to the City and burdensome to the Employees. It is of the opinion that any increase in the “Minimum Manpower” levels, rather than the Complement level, would necessarily result in more overtime in order to accommodate a greater number of Employee’s time-off needs and requests for other leaves provided under the Agreement. Even though the Union claims this is not it’s intended result, it would be unavoidable under it’s proposal.

It notes that MMP overtime is a daily occurrence because there is insufficient staffing to accommodate the inflexible, minimum manning standards and Employee time-

off requests. The City indicates that it is common practice throughout the State that a complement of Fire Fighters exists sufficiently above the "Minimum Manpower" levels to accommodate the Employee time-off needs and wishes without having to resort to overtime. The additional salary attendant therewith would also be exasperated by the increased overtime.

It provided documentation concerning a cost analysis of the Union's proposal to increase the MMP by four (4) from eleven (11) to fifteen (15) wherein a "minimum complement" would be required of nineteen (19) per shift with an additional 513 hours of MMP overtime which will require it, based on the Union's proposal, to hire nineteen (19) new Employees. That, based on a \$65,000 per new hire cost, would result in an additional annual expense of \$1,235,000 in salary and benefits and an additional \$20,520 in MMP overtime. It notes, and it was discussed at great length during the course of the Mediation and Fact Finding proceeding, that these additional Employees would not become available until July and December of 2000 based on the training classes that they are required to attend and, as such, it would have to staff the MMP level, if increased, by overtime. Even assuming that the City could hire these additional Fire Fighters by July 1, 2000, such would cost the City \$672,000 in the seven (7) month period from December through June 30, 1999, for MMP overtime. It notes that such is in addition to the \$30,000 per pay period the City is currently paying in MMP overtime to meet the current MMP requirement of eleven (11) that went into effect this year. The Union's proposal is more than 1/3 of the Fire Department's overall budget and would consume approximately 9% of the City's budget.

The City insists that the Union’s proposal is not consistent with the purpose of “Minimum Manpower” standards in order to perform the job at an acceptable level of safety and service. Such standards are not intended to be an “optimal” level of staffing. Such is unrealistic and short-sighted to have a “Minimum Manpower” standard established at a level that does not adequately account for time-off for Employees or virtually always creates an overtime situation. By proposing to hire two (2) additional full-time Fire Fighters per shift without increasing the “Minimum Manpower” requirement would better ensure adequate staffing; manage time-off requests; and, control the overtime. It insists that the prior “Minimum Manpower” level of ten (10) Fire Fighters provided excellent fire service to the Community while not compromising Fire Fighter safety. By increasing that number to eleven (11) only further ensured the ability of the Fire Fighter safety as well as the service provided to the community. Moreover, in the event that unusual demands for service arise, the City has entered into a Mutual Aid Agreement to deal with such rare circumstances.

The City notes that the City of Norwood’s population has not increased based on recent Census data and has decreased nearly 10% in the last ten years. It’s difficult jurisdictional boundaries render it “landlocked”, only comprising approximately three (3) square miles. It is not expected, that there will be any additional or significant demands placed upon the City’s Fire Department based on these factors. The demand for the Fire Department services has not significantly increased in the last five (5) years and, therefore, an additional increase in “Minimum Manpower” is not warranted. For the past five (5) years, the “Total Alarm Runs” has increased only 2.6% from the previous year based on

1998 figures. The “Total EMS Runs” has increased approximately 2.7% based on 1998 versus 1997 figures and, the “Fire Alarm Runs” have decreased 13% based on a comparison of 1997 versus 1998 statistics. Given the recent increase in “Minimum Manpower” level, such is certainly sufficient to adequately address the modest increases and the demands upon the Fire Department’s personnel.

The main theme of the City’s proposal to maintain the “Minimum Manpower” levels while increasing the Complement number is centered on cost considerations. It would have to hire at least twelve (12) additional Fire Fighters based on the three (3) agreed upon in 1999, but not yet hired and the nine (9) more proposed by the Union based on it’s proposal which would equate to an approximately 15% additional increase in the Fire Department budget. Such would represent a cost of nearly \$567,000 to a budget of \$3,500,000 and could very well effect the quality and level of services delivered by City and the Fire Department. The MMP overtime is continuing at a rate that would cost the City in excess of \$750,000 per year, without considering the Union’s current proposal.

The City insists that the Union has failed to meet it’s burden to support or justify it’s proposal and is one with extraordinarily expensive cost ramifications. In this regard, based on a lack of justification warranting it’s proposal, the *status quo* or the “Minimum Manpower” level of eleven (11), should be retained. The Union’s basic proposition characterizing the “safety consideration” has not been supported nor are there any changes in the law that would mandate an increase in the “Minimum Manpower” level as it suggests.

Finally, the City argues that based on the comparable data provided, similarly

situated Fire Department jurisdictions surveyed indicate that this City is comparable to, or exceeds, the "Minimum Manpower" standards of most other comparable Fire Departments. It insists that the City compares favorably in terms of "Minimum Manpower" levels with Fire Departments with more fire stations that serve a larger population and a larger geographic area. It notes that the City can support and has offered to hire six (6) new Fire Fighters in addition to the previously agreed-upon increase in the MMP to eleven (11) per shift when the two office/retail developments are "substantially completed". There exists no compelling reasons for the City to further increase the MMP level, but the City has expressed a willingness to increase the number of Fire Fighters by a total of six (6) contingent upon the substantial completion of the two (2) proposed retail/office developments. The anticipated revenue expected from such projects and the possibility of additional demands upon the Fire Department have been recognized in this very fair and reasonable increase in staffing levels. The City's proposal does not "count chickens before they are hatched" and provides a means of paying for its proposed increase in staffing levels while providing relief in the overtime burden upon the Employees as well as the City. Such is also consistent with the City's growth and external factors based on comparable data.

RECOMMENDATION & RATIONALE

Based on the data provided, the positions taken by the respective Parties, and those factors peculiar to Fire Division personnel, it is hereby recommended that the Parties incorporate language that would increase the MMP levels effective July 1, 2000, from the current number eleven (11) to that representing twelve (12), and that, effective April 1,

2001, that number of twelve (12) be increased to thirteen (13). It is apparent based on the data provided that the Parties recently increased this number from ten (10) to eleven (11), and the effective date thereof was January 1, 1999. It is clear that the Fire Department personnel have not realized the impact as yet because the Complement level was below that required in the Contract.

As indicated to the Parties by the Fact Finder, the Fact Finder's jurisdiction only encompasses that issue subject to the Re-opener, i.e., Article 17, titled "Minimum Manpower." The consideration of increasing the Complement as suggested has not been realized at this juncture inasmuch as the additional personnel have not been placed in order to address the increase from ten (10) to eleven (11). As was indicated by the Parties, it is seemingly undisputed that every increase in a number of the "Minimum Manpower" by one (1) equates to approximately three (3) personnel that need to be hired by the City. Whatever the costs associated therewith, whether it be the City's number of \$65,000 or the Union's number of approximately \$50,000, the average thereof in the neighborhood of \$57,000 obviously increases the City's overall budget. With a declining population, any substantial increases in those numbers would have a staggering affect and impact on the City's overall financial obligation to fund the services necessary to recognize the Union's proposal. In this regard, it would indeed seem prudent to increase these numbers incrementally as suggested herein and above to allow the Employer the ability to address it's funding requirements and budgetary concerns and hopefully recognize the increased revenues that the two (2) retail/office complexes that may be generated.

With respect to the comparable data relied upon, the Fact Finder is of the opinion

that many provided by the Employer have some agricultural components. The City of St. Bernard with a small geographic location is indeed closer to Norwood relative to the type of area and density with regard to population and the overall structural make-up of the buildings contained therein. However, some similarities exist relative to them. The population density is such that St. Bernard with a geographic area of 1.5 miles has a population of 5344, or 3562 persons per square mile. Norwood with a geographic area of 3.1 miles has a population of 21000, or 6774 persons per square mile. Maple Heights has 4758 persons per square mile with a MMP of 8 for two (2) Stations; Rocky River 4533, 6 MMP; Garfield Heights 4133, 8 MMP for two (2) Stations; and, Bowling Green 3409, 8 MMP (University). This population density factor suggests that indeed Norwood would experience greater demands on its Fire Department; however, not to the level suggested by the Union based on these comparables, including St. Bernard, given the MMP level it seeks of 15. Even with the "Minimum Manpower" levels Norwood recognizes, taken into consideration with the size, being approximately one (1) square mile larger than the City of St. Bernard does not, in the opinion of the Fact Finder, warrant that the amount of the "Minimum Manpower" be increased to fifteen (15) as propose by the Union. The increase of one (1) to the MMP equates to an increase of personnel of three (3). The earlier implementation time frame recommended, seemingly addresses both Parties' concerns; i.e., that of the City of the funding aspect relative thereto and the Union's seeming urgency to have these numbers put into effect to immediately address what it characterizes as safety concerns, and positions it very favorably with the other comparables noted.

The Undersigned has reviewed and analyzed the data provided by the Union relative

to the regulations relied upon and indeed they warrant consideration. However, the levels that the Union seeks would have a significant financial impact on the City. Given the data provided, concerning the "Total Alarm Runs", the 1997 versus 1998 figures indicate a 2.6% increase. The "Total EMS Runs" for the same time frame realized a 2.7% increase while the total number of Fire Runs decreased from 1997 to 1998 by 13%. It seems to the Fact Finder that the prominent consideration concerning "Minimum Manpower" exists when the fire apparatus and fire suppression equipment is called to a scene that might be complicated by the EMS personnel being out on a run or the number of individuals that are available to address a situation. The "two in - two out" consideration, as well as Regulation 1500, indeed are worthwhile considerations however, those must also be taken into consideration with regard to the financial capabilities of the City to fund the increase in personnel as proposed. The recommendation contained herein recognizes the need for increased personnel, while also recognizing that there is a significant price tag associated therewith.

Regarding the projected retail/office developments, it would indeed seem that there would be an increase in revenue for this City that has experienced declining population while nonetheless continues to hire "other" personnel. This is not a matter of priority spending in the opinion of the Fact Finder, but one necessitated out of realistic considerations concerning the types of services that the City also provides separate and apart from fire personnel obligations.

Additionally, it seems readily apparent to the Fact Finder that the increase in the number of personnel available from the "selection pool" to man the "Minimum

Manpower” requirement, if increased, would have a positive impact on the overtime obligation the City is currently experiencing. It is recognized that the City is experiencing a great deal of what it characterizes as “MMP Overtime” and the Union argues that such has been prompted by the Complement number below that recognized under the Agreement. The Undersigned advised the Parties that his jurisdiction would only involve that which was under Article XVII and addressed in the Notice to Negotiate relative thereto. It would seem however, that the pool from which the Employer had access to meet the minimum manning requirements should be sufficiently large enough to allow it to draw the requisite number while also recognizing the number of people that are normally off on scheduled time off under other Articles of the Contract.

It is the opinion of the Factfinder that the minimum manning recommendation contained herein is indeed reasonable based upon the Parties’ indications both in Mediation and at the Factfinding proceeding and would provide the City with the time to address the increase in personnel that would be necessitated by increasing this number. Such also recognizes the Union’s concern regarding safety relative to the earlier implementation time frame and seemingly would provide a compromise basis as to when the increase from twelve (12) to thirteen (13) would occur.

CONCLUSION

In the opinion of the Factfinder, the recommendation contained herein is reasonable taking into consideration the concerns of both Parties; i.e., that of the Union regarding safety and that of the Employer based on the cost associated with increasing the personnel

necessary to implement such a recommendation. In light of the data presented; the representations made by the Parties; and, based on the common interests of both entities, it is recommended that the Parties adopt this recommendation so that this Re-opener can be brought to closure and that the Collective Bargaining relationship can continue without interruption. This recommendation was made based on the comparable data provided; the stipulations of the Parties; the positions indicated to the Fact Finder during the course of Mediation and in Fact Finding; and, was based on the mutual interests and concerns of each Party to this Agreement.



DAVID W. STANTON, ESQ.
Fact Finder

Dated: September 23, 1999.
Cincinnati, Ohio.

CERTIFICATE OF SERVICE

The Undersigned certifies that a true copy of the foregoing Fact Finding Report and Recommendation has been forwarded by overnight mail service to Robert W. Windle, Advanced Management Systems, 555 West Schrock Road, Suite 220, Westerville, Ohio 43081; to Rick Paul, President, I.A.F.F., Local 445, 2320 Lysle Lane, Norwood, Ohio 45212; and, to G. Thomas Worley, Administrator, Bureau of Mediation, State Employment Relations Board, 65 East State Street, Columbus, Ohio 43215-4213, on this 23rd day of September, 1999.



DAVID W. STANTON, ESQ. (0042532)
Fact Finder