

Resolution No. 8 20 18

**RESOLUTION REJECTING THE RECOMMENDATIONS OF THE FACT FINDER IN THE NEGOTIATIONS BETWEEN THE CITY OF NORWOOD AND INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL #445, AND DECLARING AN EMERGENCY.**

**Whereas**, the City of Norwood and International Association of Firefighters Local #445 have been engaged in negotiations concerning wages and minimum manning for the current collective bargaining agreement, which runs through December 31, 2018; and

**Whereas**, the City of Norwood and International Association of Firefighters Local #445 have submitted certain issues to fact finding; and

**Whereas**, the fact finder has issued recommendations regarding those issues; and,

**Whereas**, Council for the City of Norwood wishes to reject the recommendations of the fact finder; now therefore,

**BE IT RESOLVED**, by the Council of the City of Norwood, State of Ohio, that:

**Section 1.** The recommendations of the fact finder, issued pursuant to negotiations between the City of Norwood and International Association of Firefighters Local #445 (attached hereto as Exhibit A, and incorporated by reference herein) are hereby rejected.

**Section 2.** This resolution is hereby declared to be an emergency resolution and a measure necessary for the immediate preservation of the public peace, health, safety and general welfare and shall go into effect forthwith. The reason for said emergency is the necessity to reject the fact finding recommendations within prescribed time-lines.

PASSED June 12, 2018  
Date

Donna M. Laake  
Donna M. Laake  
President of Council

**ATTEST:**

Joseph S. Geers, the duly appointed Clerk of Council, attests that this resolution was passed at a regular/special meeting of Norwood City Council on the 12<sup>th</sup> day of June, 2018 in compliance with the rules of Norwood City Council and the laws of the State of Ohio. The foregoing resolution was submitted to the Mayor of the City of Norwood, Ohio for his signature on the 13 day of June, 2018.

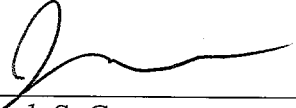
Joseph S. Geers  
Joseph S. Geers

APPROVED 6/13/18  
Date

Thomas F. Williams  
Thomas F. Williams  
Mayor

**CERTIFICATION OF PUBLICATION:**

Joseph S. Geers, the duly appointed Clerk of Council, attests that this Ordinance was published in the Enquirer on 6/19/18 and 6/26/18.  
(Name of Newspaper) (date) (date)

  
\_\_\_\_\_  
Joseph S. Geers  
Clerk of Council

**ORDINANCE READINGS**

1<sup>st</sup> Reading \_\_\_\_\_  
Date

2<sup>nd</sup> Reading \_\_\_\_\_  
Date

3<sup>rd</sup> Reading \_\_\_\_\_  
Date

All 3 Readings 6/12/18  
Date

Tabled \_\_\_\_\_  
Date

Vetoed \_\_\_\_\_  
Date

BEFORE THE STATE EMPLOYMENT RELATIONS BOARD

In the Matter of:

City of Norwood and

IAFF, Local Union #445

Case No.17-MED-10-1201

Date of Report: June 8, 2018

Fact-Finder: Jack E. McCormick

Date of Hearing: June 5, 2018

A Fact-Finding hearing was convened on June 5, 2018 in the offices of the City of Norwood, Ohio at 4645 Montgomery Rd. Norwood Ohio.

Present for the City:

Kelly E. Babcock, Clemans-Nelson & Associates  
Joseph C. Geers, Director Norwood Public Safety

Present for the Union:

Bobby Schlacter, President, IAFF Local445  
Tom McCabe, Vice President IAFF Local 445  
Diane Fienning  
Jim Lee  
Dan Siciliano  
Ben Schibi

This is the third hearing in this matter. This Fact-finder conducted a mediation session on April 24, 2018 which was unsuccessful. Fact-finder Howard Silver had previously conducted a hearing and all but two issues (Wages) and (Minimum Manning) were resolved. This is a re-opener of the current collective bargaining agreement (CBA), which runs from November 2016 through December 31, 2018.

The bargaining unit consists of 50 employees and supervisors in the Norwood Fire Department, except the Fire Chief.

The City is completely surrounded by the City of Cincinnati, Ohio. It consists of 3.15 miles with a population of just under 20,000.

On October 6, 2016, the Auditor of the State of Ohio declared the City to be in fiscal emergency. By law, when this occurs, the City must adopt a Financial Recovery Plan (FRP) and submit a five year plan overseen by the Auditor and a Financial Planning and Supervision Commission (the Commission) which consists of the Auditor, and appointees from the State Office of Management and Budget, the State Treasurer, and appointees of the Governors's office and the local legislative body.

According to O.R.C. Section 118.13 (inter alia):

**(A) No appropriation measure may be adopted contrary to the financial plan approved by the planning and super vision of the Commission.**

In March of 2018 the Commission adopted a revised FRP in which it was ordered that the City **reduce** personnel for both the City Police and Fire Department and no wage increases through 2022.

This means that notwithstanding any finding by any fact-finder, or conciliator, nor agreement by the parties, the FINAL arbiter is the Commission. The statute above prohibits any award(s) that are not approved by the Commission.

#### THE UNION'S POSITION

##### WAGES

The Union proposes an across the board wage increases of 3% retroactive to January 2018 and an annual cost of living adjustment based on the the Bureau of Labor Statistics Index.

The City estimates the costs for 2018 to be \$114,020, with roll-ups. (of course it is impossible to cost the COLA out to 2022). It is noted that no bargaining unit received a pay raise in 2016, nor 2017, with the exception of the police department. In that matter the police department made certain concessions, which the Union will not make. The City proposes a complete wage freeze (it is noted that that it is not a complete freeze as the unit will receive annual step increases.

## DISCUSSION

When the State Auditor declared the the City to be in Fiscal Emergency in October 2016 the City at that time was accumulating annual deficits of \$306,000. This did not include outstanding bills that were, for some inexplicable reason were never on the City's books, as Accounts Payable. No witness for the City could explain why, or how this occurred.

Nevertheless, the City, for the year 2017, incurred expenses that exceeded their revenue by \$227,524. Both parties agree that the expected tax revenue should increase by one percent (1%) annually. The estimated increase revenue is between \$76,000 and \$77,500. Relative to the City's current fiscal situation, this is a mere pittance. Furthermore, it cannot be justified when looking at internal comparisons. No bargaining unit in the City received wage increase in 2016 and 2017, with the exception of the police department, which made certain concessions, which this unit refuses to make

## FINDING OF FACT

**PRESENTLY THERE ARE NOT SUFFICIENT FACTS TO SUPPORT THE UNION'S PROPOSED RETROACTIVE THREE PERCENT (3%) WAGE INCREASE.**

The question then becomes: are there any facts that support any wage increase for this unit?

The Union has also proposed a cost of living adjustment (COLA) commencing on January 2017 and continuing thereafter. It would be based upon the Bureau of Labor Statistics Index for the Cincinnati area for the year 2017. Considering this unit's lack of any wage increase (except contract step increases), this seems equitable. However, to keep the cost down it should not be retroactive.

THERE ARE SUFFICIENT FACTS TO SUPPORT A COST OF LIVING INCREASE BASED ON THE DEPARTMENT OF LABOR CPI-U FOR THE CINCINNATI AREA, BEGINNING WITH THE FIRST FULL PAY PERIOD AFTER JUNE 30, 2018.

MINIMUM MANNING Article 16

Currently under an agreement, the manning for each shift is eleven. The Union wishes this to be increased to thirteen. This City proposes the status quo.

The prime issue in this matter is public and firefighter safety.

The Union offered exhibits and the testimony of Norwood Fire Chief Ron Wallace (not a member of the bargaining unit).

Chief Wallace testified, under oath, as to the necessity of increasing the manning. He gave examples of the Department responding to two, or more alarms (runs) at the same, or overlapping times. He states that there have been occasions wherein there was a structure fire during a vehicle fire on the Interstate highway (two run through Norwood). This leaves the firehouse with only two firefighters with one ladder truck needing four men to operate.

The Union pointed to two exhibits that address this issue.

The first is the 2016 publication from the National Fire Protection Association (NFPA), the second is the Urban Forum of Metropolitan Fire Chiefs. Both publications recommend manning in an urban area at risk for residential, or commercial structures is 14-15 if no ariel device is used. Without the minimum manning recommended by these publications they point to the inherent risks of:

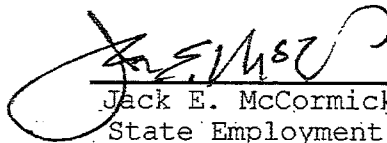
- Firefighter death or injury
- Civilian death or injury
- Property loss
- Economic impacts
- Loss of public confidence

The first duty of any government entity, at any level, is to insure the safety and property of its citizens. Indeed, that is why the largest budget item in any municipality is the safety forces. The remaining duties are secondary. Further more the residents of all communities must have confidence that their safety forces, both police and fire, can respond promptly to their needs.

This unit has bounced between eleven and thirteen scheduled firefighters for some time.

#### FINDING OF FACT

The Union's proposal to increase the number of of fire fighters on a shift from the current eleven to thirteen is supported by the facts set forth herein.



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Jack E. McCormick, Fact-Finder  
State Employment Relations Board  
June 8, 2018

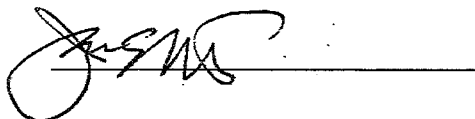
#### CERTIFICATE OF SERVICE

The foregoing was served upon the following via email.pdf on the 8<sup>th</sup> day of June 2018:

Kelly E. Babcock  
Clemans-Nelson & Associates, Inc.  
[kbabcock@clemanelson.com](mailto:kbabcock@clemanelson.com)

Bobby Schlacter, President, IAFF #445  
[nfd70@zoomtown.com](mailto:nfd70@zoomtown.com)

Donald M. Collins, Esq.  
General Counsel  
State Employment Board  
[MED@serb.state.oh.us](mailto:MED@serb.state.oh.us)



Fact-Finder's Fee Statement Case No. 17-MED-10-1201

April 24, 2018

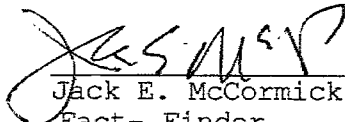
Scheduling -	.2hr -	\$190.00
Review pre-hearing docs.	.5hr -	\$475.00
Mediation	one day -	\$950.00
Mileage 230@ \$.60		\$138.00
Meal		<u>\$ 6.80</u>
Sub-total		\$1,795.80

June 5, 2018

Travel and conduct fact-finding one day	\$950.00
Study and write report one day	\$950.00
Mileage 230@ \$.60	\$138.00
Meal	<u>\$ 5.75</u>
Sub-total	\$2,043.75

Grand total - \$3,839.55

Union share - \$1,919.77  
City share - \$1,919.78

  
\_\_\_\_\_  
Jack E. McCormick  
Fact-Finder