

Introduction

In negotiations for a three-year successor agreement to begin January 1, 2004, the parties were unable to agree on twelve economic and non-economic issues. After several bargaining sessions, the union rejected a final offer from the city in January, and the parties scheduled a May 5, 2004 fact-finding hearing. The Bargaining Unit includes nine full time and two part time positions (one employee currently on military leave) in three salary categories and seven job classifications as 1) maintenance worker, 2) equipment operator; parks and groundskeeper; and 3) maintenance technician; maintenance specialist, parks and grounds specialist, and equipment mechanic. Forest Park, a city of over 19,000 employs approximately 117 individuals, including police and fire personnel represented by four separate bargaining units and over 40 non-union employees.

The Employer and Union have been parties to a collective bargaining agreement, initially from 6/15/95 through 12/31/97, and subsequent agreements from 4/1/98 through 12/31/00, and from 1/1/01 through 12/31/03. Prior to that, the employees were represented by the Forest Park Public Works Employees Bargaining Association, from 1984 until the first contract with the Teamsters on 6/15/95.

The parties exchanged and submitted pre-hearing position statements that summarized their proposals, and they prepared supporting documents for presentation at the hearing to address the criteria established by the Ohio Public Employees Bargaining Statute in Rule 4117-9-05:

- 1) Past collectively bargained agreements, 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 effect of the adjustments on the normal standard of public service;
- 4) The lawful authority of the public employer;
- 5) Any stipulations of the parties; and,
- 6) Such other actors, 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 in private employment.”

Fact Finding Hearing: May 5, 2004, City of Forest Park Municipal Building

The fact-finding hearing was then conducted from 12:10 until 5:25 p.m. The fact-finder appreciates the courtesy extended by the parties and their professional approach to the hearing.

Agreement

The Union proposed and the employer agreed to change the name of the Union as it appears in the collective bargaining agreement to "Truck Drivers, Chauffeurs and Helpers, Public Employees, Construction Division, Airlines-Greater Cincinnati/Northern Kentucky Airport and Miscellaneous Jurisdiction, Greater Cincinnati, Ohio Local Union No. 100."

Issue 1: Article 4 Check-Off and Union Security

Local 100 Position:

The union proposed to modify slightly the mechanics of the dues deduction language by deleting Section 7, adding revised language to Section 2, and in Section 1 and prior Section 10 providing that deductions for new employees begin 30 days rather than 60 days after beginning employment. The Union proposed that the Employer deduct and remit to the Union the dues for each represented employee in one lump sum within two (2) weeks following receipt of a union statement indicating the amount due. The Union also proposed that the Employer provide the Union the names, social security numbers, addresses, and hourly wage rates of all regular new employees hired since the prior list was submitted.

Employer Position:

Forest Park accepted the proposed change from 60 to 30 days in Sections 1 and 9, but sought two changes in the proposed revisions to Section 2 – payment within 4 weeks rather than 2 weeks of receiving a statement from the union, and no reporting of employee Social Security numbers. The city pays employees once every two weeks and could not remit to the union until after dues had been withheld from a paycheck. Social Security numbers could not be released without the consent of the employee.

Discussion:

The union obtains social security numbers on member registration cards, and so the representative agreed to delete that item from the information to be provided by the city. The union and city representatives also acknowledged that payment by the city within two weeks of the date that dues have actually been deducted from the employees check would be satisfactory.

Suggested Language: New language underlined

"Section 1. The Employer agrees to deduct Union membership dues, fees and assessments in accordance with this article for all employees eligible for the bargaining unit after thirty (30) calendar days of employment, and shall remit to the Union all such deductions.

"Section 2. The Employer agrees to deduct Union membership dues ~~once each pay period~~ from the pay of any eligible employees in the bargaining unit upon receiving written authorization signed individually and voluntarily by the employee. The signed payroll deduction form must be presented to the Employer or his designee by the employee or his designee. Upon receipt of the proper authorization, the Employer or his designee will deduct Union dues from the payroll check for the next pay period in which dues are normally deducted following the pay period in which the authorization was received by the Employer or his designee. All dues and fees as deducted in compliance with this article shall be remitted to the Union on a monthly basis. The Union shall certify to the Employer in writing each month a list of its members working for the Employer who have furnished to the Employer the required authorization, together with an itemized statement of dues, fees and/or uniform assessments owed and to be deducted for such month from the pay of such member, and the Employer shall deduct such

amount and remit to the Union in one lump sum within two (2) weeks following deduction from the employee's pay check. The Employer shall add to the list submitted by the Union the names, addresses, and hourly wage rates of all regular new employees hired since the last list was submitted and delete the names of employees who are no longer employed. Changes in rates of deduction shall be effective on the next pay period from which dues are customarily deducted.

Section 7

DELETE

"Section 8 7.

"Section 9 8.

"Section 10 9. As a condition of employment, ~~sixty (60)~~ thirty (30) calendar days following the beginning of employment, or upon the effective date of this collective bargaining agreement, whichever is later, employees in the bargaining unit who are not members of the Union, including employees who resign from membership in the Union after the effective date of this collective bargaining agreement, shall pay to the Union through payroll deduction, a fair share fee.

"Section 11 10.

"Section 12 11

Issue 2: Article 7 Management Rights

Local 100 Position:

In the pre-hearing position statement, the union proposed to delete most of subparagraph (c) so that the Employer would no longer be able to subcontract "under any circumstances." At the hearing, union representative Jim Napier indicated the intent was only to bar subcontracting that caused the layoff of a bargaining unit member. It appeared to the union that vacancies in the bargaining unit had gone unfilled as the city used sub-contractors to perform tasks that could be done by regular employees.

Employer Position:

Forest Park Public Works Director Dave Buesking explained that no bargaining unit members had ever been laid off as a result of subcontracting, despite the city's extensive dependence on subcontractors to perform services requiring expertise and equipment otherwise unavailable. During snow emergencies and the seasonal period of most frequent mowing the city needs extra, outside personnel. Currently all full time positions are filled by regular employees, and one spot must remain available for an employee on military leave. The city rejects any suggestion that Forest Park has an obligation to provide jobs, opposes featherbedding, and notes that other some municipalities in the region that subcontracted for trash collection were obliged to retain represented workers who performed tasks that were no longer needed.

Discussion:

The union did not document or demonstrate the loss of any bargaining unit positions as a result of past subcontracting. The city demonstrated a critical need for flexibility in subcontracting for both seasonal workers and to provide technical expertise and equipment for special maintenance services – street sweeping, tree trimming near major power lines with special cranes, plumbing, curb and gutter paving, storm sewers, etc. The current provision reasonably requires 90 days notice by the city to the union in the event a bargaining unit member would be laid off as a result of subcontracting.

Suggested Language: No change to existing Article 7 (c).

Issue 3: Article 10 Discipline

Local 100 Position:

The Union proposes to add a new Section 7 that would 1) list the forms of discipline as a. verbal reprimand, b. written reprimand, c. suspension with or without pay, d. reduction in classification, and e. discharge. 2) provide that except for cases of gross or serious misconduct, discipline will be applied in a progressive and uniform manner. 3) remove all disciplinary reports from the employee's file after six (6) months. Four collective bargaining agreements for other Forest Park employees provide "progression of discipline" and limit use of prior records after several years. Local 100's agreement is the only one that does not include such provisions. Disciplinary records may remain in an employee's file indefinitely,

Employer Position:

Forest Park representatives insisted that contract provisions on just cause, pre-disciplinary hearings, and union representation were sufficient and that no bargaining unit member had been discharged in their fifteen-year experience. In one case that went to arbitration an employee had been demoted, and other employees had received reprimands and suspensions.

Forest Park offered to add language limiting use of prior records from three to five years. Disciplinary records cannot be expunged, and would be retained elsewhere if removed from the employee's personnel file. The union's proposal to remove disciplinary records after six months would prevent the employer from holding workers accountable for repeated misconduct, especially if a system of progressive discipline limited the initial penalty.

Discussion:

Except for "reduction in classification (demotion or pay)" the current article 10 includes the other four types of discipline the union proposed to list in a new section 7 – discharge and suspension (Section 2), written reprimand (Section 3) and oral reprimand (Section 4). The fact-finder found Section 4 ambiguous, and assumes that the time and date of an oral reprimand is recorded but that no hearing is required prior to the verbal reprimand. The other Forest Park labor agreements refer to "disciplinary counseling," a phrase that does not appear in the current Article 10 or the Local 100 proposal. The employer's proposal refers to "counseling and written reprimands."

The fact-finder concludes that the Local 100 agreement should have new language similar to provisions in the other Forest Park labor agreements to establish the principle of progressive discipline, to provide reasonable limitation on use of prior disciplinary records, and to identify demotion/reduction as a possible sanction. The fact-finder encourages the parties in future negotiations to resolve the ambiguity about oral reprimands in Section 4 and the practice of "disciplinary counseling."

Suggested Language:

Section 7 (New)

Except in cases of gross or serious misconduct the principles of progressive disciplinary action will be followed with respect to minor offenses such as, but not necessarily limited to,

tardiness and absenteeism. The progression where appropriate will include at least one reprimand before any suspension imposed prior to a demotion/reduction or dismissal for the same or related offense.

Issue 4 Article 12 Seniority

Local 100 Position

The union made a proposal to assist senior bargaining unit members seeking to advance into a higher classification by reassignment to a vacant position created by resignation, retirement, or discharge. For a thirty-day trial period a member could demonstrate the ability to perform in the higher classification. A separate proposal would enable members whose positions were abolished to bump less senior members in a different classification as long as they could satisfy a "reasonable production standard" in the new position. A final proposal would link overtime opportunities to seniority.

Union representatives at the hearing stressed the critical importance of providing improved opportunities for advancement after training and an opportunity to demonstrate new skills. Members seek incentives to advance -- priority over outside job applicants and assurance that improved skills will not result in out of class work at the same pay grade.

Employer Position:

Forest Park notes that merit and fitness rather than seniority govern job selection under applicable local civil service law. The nine full time employees in the bargaining unit have seven different classifications with a diverse set of skills and licensing credentials—driving commercial vehicles, snow plows, and motorcycles, transporting firearms, spraying weeds, repairing electric traffic signals, operating a back hoe, lawnmowers, etc. Safety rather than seniority is the first priority when mechanics repair hydraulic equipment on fire trucks. Large employers such as the city of Cincinnati can provide mechanic trainee positions, but a small government like Forest Park is unable to assist its employees in that way. Public works department supervisors reported in the hearing that bargaining unit members had declined opportunities for training and that administrators could not individualize compensation based on the number of hours each employee used different types of equipment normally associated with different job classifications.

Discussion:

The fact finder appreciates the union representatives' laudable goals and their professed willingness to be flexible in discussions with the city about how to provide incentives for employees to improve their skills and to advance. While professing support for the same goals, the city's objections to specific measures proposed by Local 100 appear reasonable. The classifications are so numerous and the skills and licenses required are so varied that the replacement and bumping proposals made by Local 100 appear unworkable. At the same time, the bonus points received by current employees on civil service exams created for vacant positions does not offer sufficient incentive for employees to take advantage of tuition remission and training opportunities. There are so few positions in the unit that the prospect of advancing into a higher classification requiring new skills is quite remote. Until the parties engage in further discussion of alternate incentives, the fact finder recommends that the city reward employees who improve their skills with an advance of more than one step on the salary schedule within their existing classification. The suggested language would appear in Appendix 1 Salary Schedule and is drawn in part from the city's wage proposal.

Suggested Language: Appendix 1 Salary Schedule

The City may provide incentives for and reward the achievement of new skills through special training by advancing an employee more than one step on the salary schedule.

Issue 5 Article 13 Vacation

Local 100 Position

In its pre-hearing statement, the union proposed an addition to Section 1 so that employees completing 25 years of continuous service receive six weeks of paid vacation. Three unit members would immediately receive the benefit. At the hearing, the union representative proposed an additional change to Section 7 in order to allow more than two employees to be on vacation at the same time, with an exception to assure that at least one mechanic was always available.

Employer Position:

Forest Park noted that current vacation benefits are extremely generous and considerably more than enjoyed by other employees -- ranging from two weeks after one year to five weeks after twenty years, plus twelve paid holidays, and fifteen paid sick leave days per year. The employer's representative argued at the hearing that the proposed change to Section 7 increasing the number on vacation might cause difficulty during periods of heavy snow removal or extensive grass cutting, and that there had been no problem administering the current provision on simultaneous vacations that necessitated a change.

Discussion:

The union did not offer a persuasive justification for increasing the vacation benefit after 25 years or identify any comparable vacation provisions from bargaining agreements in other cities to support the proposal. The Local 100 pre-hearing statement did not propose any change to Section 7, and no specific contract language was submitted for consideration. The fact finder is uncertain whether the union had ever submitted that proposal to the employer prior to the hearing. Assuming the Section 7 proposal can be considered for the first time based on the hearing submission, the fact finder would still recommend current language based on the evidence and rationale presented.

Suggested Language: No change to existing Article 13

Issue 6 Article 14 Holidays

Local 100 Position

1. The union proposed a change in the Section 5 language that denies holiday pay to an employee who is absent either on the day before or the day after the holiday. Local 100 proposes that members would only lose holiday pay when absent both the day before and the day after the holiday. Three bargaining agreements with Forest Park police do not provide for any loss of holiday pay related to absenteeism. 2. The union also proposed to revise Section 7, increasing pay for required work on a holiday from one and one-half to two times the regular hourly rate. 3. In addition the union proposed that required work on a Sunday be compensated at two times the regular hourly rate.

Employer Position:

1. Forest Park noted that Local 100 members receive three personal days a year in addition to vacation and paid sick leave that can be combined with regular paid holidays. The employer seeks to discourage unwarranted, unexpected absenteeism out of paid status before and after holidays. 2. One and one-half the regular hourly rate for required work on holidays is standard in the city's other bargaining agreements. 3. The employer objects to the cost of premium pay on Sundays.

Discussion:

1. The employer's legitimate rationale for penalizing absenteeism is offset by the more favorable treatment granted to other represented city employees who are not subject to the penalty. Reducing the penalty as proposed by the union would still not offer parity to members of Local 100, as they would lose their holiday pay if absent for two days rather than one. All Forest Park employees lose one day's wages for each day absent in out of pay status. In addition, Local 100 members have a further disincentive because they currently lose an additional day's wages for holiday pay as a result of absence. Given the absence of a penalty for other city employees, the fact finder concludes that the Local 100 proposal for Section 5 is reasonable as it retains some disincentive for absenteeism. 2+3. Local 100 members appear to receive pay at one and one-half times the regular rate for more holidays than employees covered by the other Forest Park agreements provided to the fact finder, and there is no evidence that other city employees receive premium pay for work required on Sunday. The union has not offered convincing justification for those proposals, and the fact finder recommends current language for Section 7.

Suggested Language: Article 14

Section 5. Whenever an employee is absent from work and not in paid status on the work day before a holiday and ~~and~~ the work day after a holiday, he shall not be paid for the holiday.

Section 7. No change

Issue 7 Article 15 Sick Leave**Local 100 Position**

1. The Union proposed an increase in unused, accumulated sick leave from 200 to 225 working days in Section 4. In support, the Local 100 representative provided copies of two other Forest Park agreements that offer police officers and supervisors 225 days and the fire fighters association agreement that grants 1,800 accumulated hours (225 x 8).

2. The union proposed to increase the retirement benefit from a maximum of 90 days pay calculated at one day's pay for each two days of sick leave by fully compensating up to 225 accumulated sick leave days at one day's pay for each day of sick leave.

3. The Union also proposed adding, "All paid time, including holidays and sick leave, shall be considered as paid status for all benefits."

4. The union proposed to delete two outdated paragraphs in Section 7 with the following new provision: "If an employee develops a disability, the Employer and the Union shall meet within ten (10) days, to discuss job accommodations for the employee."

Employer Position:

1 + 2. Forest Park opposes more than doubling the cost of severance pay that would result from the Local 100 proposals. Unused sick leave can accumulate at 15 days per year, enabling those who retire after 12 years an extraordinary financial payout for three months salary.

3. The employer categorically rejects any proposed new language that would enable workers to use sick leave as a vehicle to obtain overtime pay that currently can only be earned after actually working forty hours in the same week as provided in Article XX Section 4.

4. Forest Park agrees that Section 7 should be deleted, but objects to new language mandating negotiation with Local 100 to discuss job accommodations for newly disabled employees. Under the U.S. Americans with Disabilities Act, (ADA) the employee has rights and the employer, not the union is responsible for making necessary accommodations. There is no duty to bargain, and Local 100 could not negotiate away the disabled individual's rights.

Discussion:

1 + 2. The current agreement allows Local 100 members to accumulate up to 200 days of sick leave, but only 180 days maximum are considered in computing severance pay. The fact finder recommends that Local 100 members receive the same benefit granted to other represented Forest Park employees, beyond the minimum required by Ohio law – a total of 225 days of accumulated sick leave, all of which can be considered in computing severance pay. The union did not offer evidence or argument to justify a one for one payout, and the fact finder recommends maintaining the current formula of one day's pay for each two days of accrued sick leave; the new maximum would be an increase from 90 to 112.5, consistent with the other Forest Park agreements.

The fact finder accepts the employer's reasoning 3. that sick leave should not be counted toward hours actually worked in the determination of overtime pay and 4. that no additional language is required to deal with accommodations for the disabled.

Suggested Language: Article 15. Sick Leave Section 4

Unused sick leave may be accumulated to a total of not more than 225 working days. The employee shall not be compensated for unused sick leave except as provided below.

Upon retirement from the City service, an employee may elect one of the following:

(a) Be compensated for accrual of sick leave days (225 days maximum) at the rate of one day's pay for each two (2) days of accrued sick leave (112.5 days pay maximum); or

(b) Take terminal leave at the rate of one day's pay for each two (2) days of accrued sick leave (225 days maximum) convertible sick leave to 112.5 days of terminal leave. Terminal leave must immediately precede the employee's retirement.

Issue 8 Article 19 Insurance

Employer Position:

Forest Park seeks to eliminate the \$32 and \$64 caps on the monthly contributions by Local 100 employees for medical insurance premiums by requiring them to pay 15% of the cost for either single or family coverage. The city's goal for January 2005 is to have all other represented and non-union employees contributing 10% of their medical insurance premiums, but Local 100 members would pay more if granted the proposed 5% wage increase. The Forest Park City Council by ordinance has increased non-represented employee's monthly contributions

in 2004 to \$30 for single and \$60 for family coverage and, effective January 1, 2005 to 10% of the monthly premium cost. The city experienced an 87% increase in premiums since 1998 as the family plan costs went from \$420 to \$785.28 a month in 2003. Future annual increases are anticipated but the amount cannot be predicted.

Local 100 Position

The union provided data on nine comparable cities in the region showing an average employer contribution of 95% as well as provisions of Forest Park agreements with three police groups that limited the 10% share with a monthly cap. The union also noted that Local 100 members have consistently received lower wage increases and benefits as the employer seeks advantage in dealing with other employee groups. Non-union workers were granted 4% wage increases after Local 100 accepted 3.5%, and their health care premium contributions in 2004 have still not been increased to the levels mandated for the union. City Council could simply by adopting a new ordinance effective in 2005 reduce the non-union employees per cent contribution below the 10% level after concluding an agreement requiring Local 100 members to pay more. The firefighters association and the city are currently negotiating the same insurance issue that can be resolved in conciliation and dispute resolution procedures that are unavailable to Local 100. The firefighters agreement expired December 31, 2003.

The city once again offers the lowest wages and benefits to the smallest employee union, while strongly objecting to Local 100 proposals for "me too" wage adjustments. The Local 100 representative noted that increased premiums do nothing to reduce health care expenses, and that higher co-payment requirements might better protect the common interests of the city and its employees by reducing unnecessary doctor visits that drive up insurance costs.

The union proposed to eliminate the first sentence in Section (e) and the city agreed that the provision was outdated and should be removed. The retained sentence in Section (e) continues dental insurance provided by the city with no required contribution by employees.

Discussion:

In the absence of additional data from comparable cities, the fact-finder is unable to evaluate the level of medical insurance benefits and costs to the employee in relation to other public employers. Forest Park currently has four different health care premium payment levels for different groups of city employees, and the fact finder's recommendations seek to permit the uniformity and standardization that the city representative identified as a goal for 2005.

The annual medical insurance contract effective in April 2004 costs Forest Park for single coverage \$299.44 a month and family coverage \$823.47 per month. Only one Local 100 member has elected single coverage, a plan that at 10% costs the employee less than the current \$32 per month cap. At 15% and no cap, the employee with single coverage would pay \$44.90 per month, a 50% increase. At 15% those employees with family coverage would have monthly premiums increased from the \$64 cap to \$123.45, or, at 10%, their monthly contributions would increase by \$18/month to \$82 (\$216 a year). Removing the \$64 cap and applying a 10% rate, the increased annual cost would amount to between .5% and .8% of base salary, reducing the increased take home pay from a wage increase. Even with a 5% salary increase, the proposed 15% contribution rate appears excessive.

The city objects to Local 100 proposals for "me too" wage adjustments, but does want all Forest Park employees to pay the same rate for medical insurance premiums. Three agreements with the police that expire in December 2004 all retain a cap on the 10% portion paid by the employee. If all other city employees pay 10% by February 2005, the cap for police is \$38.40 single and \$76.80 family. If other city employee groups pay less than 10%, then the cap for police remains at \$32 single and \$64 family.

The fact finder recommends retaining the current insurance provisions through December 2004 so that Local 100 members and non-union employees would pay about the same monthly premium (\$62 and \$60) for the family plan. Effective January 1, 2005 the caps would be removed for both groups when the 10% share would raise the monthly cost to \$82 for family coverage until the current health insurance contract expires in 2005. The Local 100 members would continue to pay 10% under subsequent insurance plans through the end of their contract, unless non-union employees pay less. Local 100 members should benefit from any reduction in the 10% share that Forest Park grants to non-union employees through the remainder of the contract period, December 31 2006, and the union should also benefit from any monthly cap that is granted to other employee groups. If the city is unable to achieve its goal of uniform health care coverage for all employee groups, then Local 100 members, a low wage group, should not have the highest costs for health insurance.

Article 9 provides for Labor Management meetings that could be used to evaluate options to reduce or limit future increases in health insurance premiums. Future health care cost increases are unpredictable, placing both parties at risk. The parties have a mutual interest in negotiating reductions with health care providers. Eight of the nine full time Local 100 elect family coverage; those with only a single dependent might obtain lower premiums than co-workers needing coverage for families of three or more. Other savings might be possible without reducing coverage through customizing limited cafeteria-style choices on different levels of coverage for dental (with or without orthodontia) or other benefits, or by offering two plans, one at a reduced premium with fewer network providers and different rates for out of network service.

Suggested Language: Article 19 Insurance

(b) Medical/hospital/major medical group health insurance coverage shall be provided for all permanent full-time employees. Monthly premiums shall be paid by the City and the employee as follows:

The City shall pay the health insurance premium for the employees who shall contribute and pay by payroll deduction a portion of the monthly premium for single or family coverage. Through December 31, 2004 the employee shall pay ten percent of the total premium charged to the city up to a maximum of \$32 per month for single coverage and \$64 per month for family coverage. Effective January 1, 2005 and during the remaining term of this agreement, the employee shall pay ten percent of the premium charged by the insurer in the health plans offered by the City. If during the final two years of this agreement, non-union City employees pay less than 10% of the monthly premium, then Local 100 members will contribute at the same reduced rate for the same period. In the event that any city employee group's monthly costs are limited to a specified dollar amount and the employer pays the entire balance of the employees' premiums, Local 100 member costs will be limited to the same monthly level granted to the employee group receiving the lowest cap.

(e) [Delete Health insurance, . . . after December 31, 1990]. Dental insurance shall continue in accord with existing policies.

Issue 9 Article 20 Hours of Work

Local 100 Position

The union seeks to increase from two to four hours the minimum time that employees are compensated for call-in pay and to increase the pay rate to time and one-half.

Employer Position:

Forest Park objected to the increased cost.

Discussion:

The union acknowledged that other employee groups had a two-hour minimum for call-in pay, and the fact-finder was not convinced of the need for change.

Suggested Language: No Change to Article 20.

Issue 10 Article 21 Uniforms

Local 100 Position

1) The union requested that the city provide 5 pairs of short uniform pants that could be worn on hot, humid summer days. The Local 100 representative described extremely oppressive working conditions during very hot periods. 2) The union also proposed to increase the reimbursement allowance for steel-toed shoes from \$150 to \$175. The Local 100 representative noted that employees needed two pairs of footwear as shoes often get wet, and that the less expensive footwear available did not last or provide adequate protection.

Employer Position:

1) Forest Park supervisors indicated that informal arrangements had been made on occasion to allow selected employees to work in their own short pants on the hottest days. Some members of the unit might need to change to long pants during the day if needed for a different type of work where shorts would be inappropriate or provide inadequate protection. The city also objected to departures from the standard uniform and the increased costs of the union proposals.

Discussion:

Each employee currently receives 11 long sleeve shirts, 11 short sleeve shirts, 11 long pants, and 1 jacket with coveralls and rubber boots provided on an as need basis. Some of the employees would never wear shorts because of the nature of their jobs, so providing five short pants for all members of the unit would not be cost effective. The city's desire to have a uniformed workforce is comparable to the goals of the U.S. postal service whose male and female mail carriers do not wear identical uniforms and who wear shorts on hot days. The agreement ought to grant those Local 100 members who demonstrate a need to wear shorts an opportunity to apply to Forest Park for some additional pants, with supervisors given the discretion to respond to and accommodate reasonable requests that will not disrupt work. The union proposal to increase the reimbursement allowance for steel-toed shoes was not supported by documentation showing the actual cost of footwear of different quality. The fact finder nevertheless recommends that the nominal increase be allowed, as reimbursement will only be paid for the actual expenditure based on the employee's determination of personal need.

Suggested Language: Article 21 Uniforms

Section 3. The City shall reimburse a bargaining unit member in the amount of \$175 to be applied to . . . must wear the steel toed shoes.

Section 5. Coveralls, short pants, and rubber boots shall be provided on an as-needed basis.

Issue 11 Appendix Wages and Salary Schedule

Local 100 Position

1. The union proposed annual wage increases of 5% effective January 1 in 2004, 2005 and 2006. Data provided by the union indicated that dispatchers clerks were granted 4% annual raises for 2003-2005, that the city had offered Local 100 3.5% wages increases in January 2004, and that comparable cities in the region paid higher hourly wages.

2. In addition, the union proposed a “me too” clause requiring subsequent raises to match increases for any other city employee above those granted to Local 100 members. Data provided by the union showed that other Forest Park employee groups had received greater increases than Local 100 members.

Employer Position:

1. Forest Park proposed 3% wage increases effective on the date of ratification in 2004, January 1, 2005, and January 1, 2006. The city representative pointed out that employee wage data provided by the union should be increased by 8.5% since the employer pays in full the employee’s 8.5% share to the Public Employee Retirement System. Unusually large salary increases for other represented groups were the result of shifting that 8.5% to the salary base when the employer discontinued the pick-up of PERS payments for the police and fire unions. the city provided salary data from cities in the region and comparative data on resources available to public employers in the area.

2. The city rejected the “me too” clause as unprecedented and unacceptable and proposed a new provision so that “Nothing in this Agreement shall restrict the right of the City to advance an employee more than one step on the salary schedule.”

3. Forest Park proposed a new salary schedule for the position of equipment mechanic, creating a new higher paid classification above the schedule for maintenance and technician specialists and parks and grounds specialist.

Discussion:

1. The fact finder recommends a 3.5% in 2004 and 4% annual increases in 2005 and 2006 when health care insurance premiums increase. That would raise starting annual wages to the median level identified in the comparable salary data provided by the city. Forest Park’s comparable salary increases for non-union employees and dispatcher/clerks indicates that the city has the ability to pay the recommended increase. In accord with standard practice in cases of good faith bargaining and the prior history of agreements between the parties, the fact-finder recommends that wage increases apply retroactively to the January 1, 2005 effective date of the new agreement.

2. Although the fact finder incorporated a parity provision in recommendations for the insurance article, he was not persuaded by the union presentation that a “me too” clause should be added to the provision on salary. At the hearing, the city representative did not elaborate on the proposal for advancing employees more than one step on the salary schedule, and the union

representative did not respond to the written proposal. As noted above in the discussion on seniority and bumping, the fact finder recommends providing union members with a training incentive by noting the possibility of advancing more than one step on the salary schedule by demonstrating the acquisition of new skills.

3. The union does not object to a new, higher salary schedule for mechanics so long as the increase to the base is implemented prior to the annual pay raises beginning in 2005 that should provide all bargaining unit members, including mechanics, with the same percentage increase each year. The city representative agreed that it would be possible to re-compute the proposed new salary schedule for mechanics in accord with that guideline.

Suggested Language: Appendix 1 Salary Schedule

<u>Equipment Mechanic</u>							
<u>12/31/03 TBA by the city</u>							
Annual	Hourly	1/04	+3.5%	1/05	+4%	1/06	+4%
		Annual	Hourly	Annual	Hourly	Annual	Hourly
Maintenance Technician; Maintenance Specialist; Parks & Grounds Specialist							
		1/04	+3.5%	1/05	+4%	1/06	
	+4%						
		Annual	Hourly	Annual	Hourly	Annual	Hourly
Equipment Operator; Parks & Groundskeeper							
		1/04	+3.5%	1/05	+4%	1/06	+4%
		Annual	Hourly	Annual	Hourly	Annual	Hourly
Maintenance Worker							
		1/04	+3.5%	1/05	+4%	1/06	+4%
		Annual	Hourly	Annual	Hourly	Annual	Hourly

The City shall continue to pick up and pay the full 8.5% accept a change.

The City may provide incentives for and reward the achievement of new skills through special training by advancing an employee more than one step on the salary schedule.

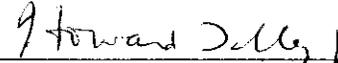
Conclusion:

It appears that the parties were unable to agree on any changes in contract language prior to the hearing. The fact finder attempted to resolve the many different issues presented, both major and minor, with a thorough review of interrelated contract provisions and with careful attention to all the evidence and argument presented. If the parties find any substantive error in this report needing correction, a conference call should be arranged to discuss the concern, and a request may be filed with SERB for authorization to adjust the report [O.A.C Rule 4117-9-05(L)]. The Fact Finder appreciates the professional approach by all individuals involved in the process and their exemplary conduct.

Professor Howard Tolley, Jr., University of Cincinnati
May 14, 2004

CERTIFICATE OF SERVICE

I hereby certify that an exact copy of the foregoing Fact Finding Report has been served via electronic mail and BY REGULAR MAIL to Tye Smith, Human Resources Director, City of Forest Park, 1201 W. Kemper Rd, Forest Park, Ohio 45240, and to Paul Berninger, Wood & Lamping, LLP, 600 Vine Street, Suite 2500, Cincinnati, Ohio 45202 and to Susan D. Jansen, Logothetis, Pence & Doll, 111 West First Street, Suite 1100 Dayton, Ohio 45402-1156 on this 14th day of May, 2004.



Howard Tolley, Jr.