

STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

SEABROOK LAW ENFORCEMENT ASSOCIATION:

Petitioner:

and

TOWN OF SEABROOK, NEW HAMPSHIRE

Public Employer:

CASE NO. P-0732

DECISION NO. 80038

APPEARANCES

Representing the Petitioner, Seabrook Law Enforcement Association:

J. Joseph McKittrick, Esquire, Counsel
Robie M. Beckman, Jr.
James M. Goldwaith

Representing the Public Employer, Town of Seabrook:

Gary W. Holmes, Esquire, Counsel
Paul J. Cronin
Steven H. Coes

BACKGROUND

A petition for certification in accordance with RSA 273-A was filed on July 2, 1980 by the Seabrook Law Enforcement Association accompanied by the necessary individual signature cards from employees wishing to be represented by the Association for the purpose of collective bargaining. The proposed unit included all law enforcement officers not having managerial responsibilities, including lieutenants, sergeants, detectives, patrolmen, special patrolmen, animal control officers and civilian aides, and listed as its only exclusion, the Chief.

The Town, through its Counsel, objected to the proposed unit; (1) to the Civilian Aide as a confidential employee who lacked the community of interest with other members of the force, (2) the Animal Control Officer as a part-time employee, not a regular police appointment, whose duties differed from other regular officers and were limited, (3) the Special Patrolmen as employed temporarily and not possessing the necessary community of interest, and (4) the lieutenants and sergeants on the basis of the supervisory nature of their duties. The Town further objected to the Association itself on the basis that it included in its membership, the Chief and other employees who could not vote on a contract.

A hearing to determine the appropriate unit was held in the Board's office in Concord on September 11, 1980 at which time the Association requested to amend their petition to exclude the lieutenants and the Town wished to withdraw their objection to the inclusion of sergeants. The amendment and withdrawal was granted by the Board.

The Town, however, still maintained its objection to the inclusion of the Animal Control Officer, Civilian Aide and the Special Officers in addition to their objection to the petitioner, "Seabrook Law Enforcement Association" which they felt was an old, longtime standing organization, established in 1956 and later dissolved by action of the Secretary of State and no longer legal. The Town felt that the bylaws of the Association were in conflict but if certain parts were deleted, they would have no problem; in essence, their objection was that in accordance with the existing bylaws, any member of the Association could vote on all matters and the bargaining committee could be comprised of specials and other personnel, other than the individuals in the certified unit, and all members could vote on a master contract.

FINDING OF FACTS

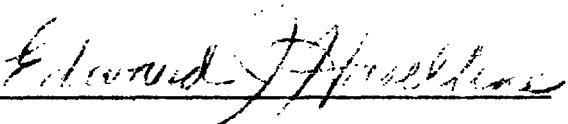
1. Civilian Aide: The job description itself of the aide clearly states that she prepares and maintains all files belonging to the Chief, except those of a confidential nature (emphasis added). It further states and testimony was presented that she performs matron duties, if assigned, and fairly consistently acts as dispatcher and desk officer.
2. Animal Control Officer: Although agreed that the Animal Control Officer does not have general police powers, he is a sworn officer who works on a year round basis in a regular police uniform, issues summons and is frequently appearing in court as a witness. The Operational Chart of the Seabrook Police Department shows the Animal Control Officer directly under the Operations Bureau Lieutenant's department along with the sergeants and the part-time officers, then patrolmen. The job description for the position lists the performance of specialized work in the enforcement of municipal ordinances pertaining to the regulations and control of dogs and other animals and that the work is performed under the general administrative supervision of the Chief of Police.
3. Special Officers: Extensive testimony was presented on the duties and hours worked by special officers. Although it is evident that the Special Officers have full police powers and must maintain certain skills of firearm, sometime act as shift commanders, work over forty hours a week during the summer months, they are in fact employed seasonally, irregularly and on call and in accordance with RSA 273-A:1, X, (d) are not considered public employees under the law.

4. Probationary Patrolmen, although employees of the Seabrook Police Department are not considered public employees under the terms of the statute, RSA 273-A:1, X(d) during the term of their probationary period and are not eligible to vote during an election to determine the exclusive representative for the group they are, however, still employees of the department.

DECISION AND ORDER

For the foregoing reasons and in accordance with the Board's authority under 273-A, it is hereby ORDERED that:

- A. A bargaining unit is created composed of all full-time patrolmen and Sergeants and includes the Animal Control Officer and the Civilian Aide. Excluded from the unit are: Chief, Lieutenants and Special Officers.
- B. An election to determine the exclusive representative for the above unit will be conducted by the Board as expeditiously as possible.


EDWARD J. HASELTINE, Chairman

Signed this 30th day of October, 1980.

By unanimous vote. Chairman Haseltine presiding, present and voting members Anderson and Osman. Also present, Executive Director Evelyn C. LeBrun.