



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Teamsters Local 633 of New Hampshire for
Manchester Library Employees

Complainant

v.

City of Manchester Public Library

Respondent

*
*
*
*
*
*
*
*
*
*

Case No. M-0786

Decision No. 2002-053

CITY'S OBJECTIONS TO CONDUCT OF ELECTION/MOTION TO RECONSIDER

The Board, meeting at its offices in Concord, New Hampshire, on April 18, 2002, took the following actions:

1. It consolidated, for purposes of this review, the City's objection to the Conduct of Election filed March 29, 2002, and the City's Motion for Reconsideration filed April 9, 2002 pertaining to the Board's review and affirmance of a hearing officer's decision (Decision No. 2002-007) in its Decision No. 2002-036 dated March 12, 2002. The Union timely objected to both filings, namely, it filed an objection to the City's Objection to the Conduct of Election on April 3, 2002 and an objection to the City's Motion for Reconsideration on April 16, 2002.
2. It reviewed the Tally of Ballots for the bargaining agent election held on March 25, 2002 and the subsequent Certification of Representative and Order to Negotiate (Decision No. 2002-040) dated April 4, 2002 in which Teamsters Local 633 of New Hampshire was certified as bargaining agent for certain "non-professional" job titles at the Manchester Public Library.
3. Upon review of the City's Objection to the Conduct of Election, it found that Items 2 through 12, inclusive, thereof were repetitive of matters submitted to and disposed of by its review and subsequent determination in Decision No. 2002-036 dated March 12, 2002, the contents of which are hereby incorporated by reference and ratified and confirmed without modification.
4. Upon review of the further and remaining portions, being Items 13

through 15 inclusive, of the City's Objection to the Conduct of Election plus items of requested relief, it found no allegations pertaining to an actionable claim or a relevant request for relief under Rule PUB 303.10 or cause to grant rehearing thereunder. The Union appropriately observed (Brief, page 10), "the City has failed to raise any actual objection or challenge to the conduct of the election...[Its] objection only addresses the Board's prior orders related to Pub 301.01 (b)." The City neither addressed nor identified any valid objections or deficiencies under PUB 303.10 or 303.11.

5. As a consequence of the foregoing, it DISMISSED, without further action, the City's Objection to the Conduct of Election in its entirety.
6. Upon review of the City's Motion for Reconsideration, it found that Items 1 through 11, inclusive, as well as Item 15 are repetitive of matters submitted to and disposed of by its review and subsequent determination in Decision No. 2002-036 dated March 12, 2002, the contents of which are hereby incorporated by reference and ratified and confirmed without modification.
7. Upon review of the further and remaining portions, being Items 12 through 14, inclusive, of the City's Motion for Reconsideration, it examined the language of PUB 301.01 (a) and (b) which, in pertinent part, provides:
 - (a) A petition for certification as the exclusive representative of a bargaining unit having no certified representative maybe filed at any time....
 - (b)The Board shall refuse to entertain any petition filed so close to the budget submission date...that the board cannot reasonably conduct an election...within 120 days of the budget submission date."

The hearing officer found (Decision No. 2002-007, page 6) that the Union filed its petition 167 days prior to its budget submission date; Rule PUB 301.01 (b) does not apply, per se. Further, the hearing officer observed that while PUB 301.01 (b) calls for elections to be held a minimum of 120 days prior to the annual budget submission date, there is no maximum. Thus, an election could have been held within the requisite 120 days from the March 31st budget submission date, but for subsequent delays sought or agreed to by the parties as explained in Decision No. 2002-007, page 6. Under another scenario, it also would have been possible to hold a bargaining agent election within a month or two of an actual budget submission date, with the Union being certified thereafter but having missed the requisite notice

under RSA 273-A:3 II (a), the consequences of which are that neither party could compel the other to bargain financials or "cost items" until it shall have waited for and met the next negotiating cycle for which notice could be given by a certified bargaining agent any time before the 120 day cut off. See Hudson Federation of Teachers AFT, AFL-CIO v. Hudson School Board, PELRB Decision No. 1996-117 (December 20, 1996).

Accordingly, we DISMISS any causes for review, relief or rehearing under Items 12 through 14, inclusive of the City's Motion for Reconsideration and affirm the hearing officer's interpretation of the 120 day limit as being a minimum, without a maximum.

8. Lastly, upon review of that portion of Item 14 of the City's Motion of Reconsideration pertaining to certification of election results, it found (a) that the procedures for reporting election results under Rule 303.10 were complied with, leaving no objections or challenges for further consideration by the Board, (b) it found that there were no valid challenges or objections to the conduct of this election under PUB 303.11 such as to require further consideration by the Board (c) thus, there were no matters awaiting resolution under the 5 day filing requirement of PUB 303.11, and (d) thus the certification results and order to negotiate were properly issued in the form of Decision No. 2002-040 on April 4, 2002 without having to await the expiration thirty (30) days under PUB 205.02 which, for purposes of this proceeding, apply only to the City's Motion for Reconsideration relative to RSA 541:3. The PELRB's review of the cross motions for reconsideration occurred on March 12, 2002. Its review herein occurred on April 18, 2000, more than thirty days from the issuance of Decision No. 2002-036.
9. It AFFIRMED the findings and results of Decision Nos. 2002-036 and 2002-40. All other claims or request for relief are denied.

So ordered.

Signed this 6th day of MAY, 2002.



JACK BUCKLEY
Chairman

By unanimous decision. Chairman Jack Buckley presiding. Members E. Vincent Hall and Carol Granfield present and voting.