



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Pittsfield Town Employees, NHFT, AFT

Petitioner

and

Town of Pittsfield

Respondent

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Case No. M-0794

Decision No. 2002-99

PRE-HEARING DECISION and ORDER

The Pittsfield Town Employees, NHFT, AFT (hereinafter referred to as the "Union") filed a Petition for Certification on July 23, 2002 seeking to certify a bargaining unit comprised of twelve (12) separate employee positions embodying a total of twenty (20) individuals employed within the Town of Pittsfield. On August 7, 2002 the Town of Pittsfield, (hereinafter referred to as the "Town") filed correspondence with the Public Employee Labor Relations Board (PELRB) wherein it, in essence, objects to the inclusion of the positions of Administrative Assistant and Office Assistant in the proposed bargaining unit on the basis that they are confidential employee positions. The Town also objects to the positions of Building Inspector, Welfare Director, Ambulance Director, Public Works Superintendent, Wastewater Superintendent, Wastewater Chief Operator, Police Chief and Police Lieutenant on the basis that they are supervisory employees. Therefore these selected positions should be barred from inclusion in the proposed bargaining unit. The Town further requests that the PELRB "dismiss entire petition."

During the conduct of the Pre-Hearing Conference it came to light that an additional employee position had been created by the Town, namely that of Wastewater Operator. The Union made an oral motion to amend its initial Petition to include this position in the proposed bargaining unit and as the Town had no objection to the amendment, the motion was granted to add that position to the requested unit

composition contained in the Union's Petition. The Town also represented that the job description for the Ambulance Director had been modified. The positions of Building Inspector and Welfare Director are part-time positions that have been combined and their responsibilities assigned to a single employee.

Following further discussion the parties agreed that the Union representative would work directly with the Town Administrator to resolve any issues related to the Town's production of certain documents to the Union, including employee evaluations, job descriptions and the amended version of the Town's Employee Personnel Policy & Pay and Classification Plan. The parties also agreed that they would work together to allow all named witnesses to appear at the evidentiary hearing and to testify without the need for subpoenas to be considered by the Board.

The Respondent's representatives made several inquiries of the Hearing Officer and advised that the Town had another bargaining unit within the Town and had had experience in the bargaining unit formation process. The Town raised a potential issue related to the confidentiality of certain personnel records of police employees. The Hearing Officer explained that documents submitted as evidence in hearings at the PELRB were made part of the official record and that if any party sought to have documents otherwise considered, they should raise the issue and provide their legal argument at the time the document was to be presented at the hearing. The Hearing Officer described the administrative process, the printed information available regarding the adjudicatory process at the PELRB and in electronic form at the agency's web site. The Hearing Officer also explained the neutral function of the presiding officer in matters before the PELRB. The Hearing Officer suggested that the Town consult with its own legal counsel for any additional questions it may have regarding legal issues related to these proceedings.

PARTICIPATING REPRESENTATIVES

For the Petitioner: Teresa DeNafio Donovan, Esquire, Staff Representative
NHFT, AFT

For the Respondent: Daniel L. Schroth, Selectman
Frederick T. Hast, Selectman
Frederick Welch, Town Administrator

ISSUES FOR DETERMINATION

1. Whether or not a sufficient community of interest exists among the employee positions proposed for inclusion in the bargaining unit?

2. Whether or not any positions proposed for inclusion in the bargaining unit stand in a "confidential relationship" as defined and interpreted under the provisions of RSA 273-A: 1, IX(c)?
3. Whether or not any positions proposed for the bargaining unit are "supervisory" positions as defined and interpreted under the provisions of RSA 273-A: 8?

STIPULATIONS

The parties agree and stipulate as follows:

1. The PELRB has jurisdiction to hear this matter.
2. The Town of Pittsfield employs persons to carry out certain municipal functions and therefore is a public employer as defined in RSA-A: 1, X
3. The New Hampshire Federation of Teachers (NHFT), American Federation of Teachers (AFT), on behalf of the Town Employees of Pittsfield, seeks to become the exclusive representative of a proposed bargaining unit comprised of certain employees of the Respondent.
4. The persons employed in the positions of Emergency Medical Technician (EMT) and Public Works Equipment Operator are public employees as defined in RSA 273-A: 1, X.
5. There are five (5) persons employed as EMT's and four (4) persons employed as Public Works Equipment Operators who the parties agree are public employees as defined in RSA 273-A: 1, X and are not prohibited by any other criteria from being included in the proposed bargaining unit.

WITNESSES

For the Petitioner:

1. Angela Mahoney, Office Assistant
2. Cara Marston, Administrative Assistant
3. Paul Colby, Building Inspector and Welfare Director
4. James Dodge Sr., Ambulance Director
5. George Batchelder, Superintendent of Public Works
6. Ronald Vien, Wastewater Superintendent
7. Robert Wharem, Chief of Police
8. Jennifer Label, Emergency Medical Technician
9. Steven Gibbs, Wastewater Chief Operator
10. Glenn Porter, Equipment Operator

For the Respondent:

1. None were identified at the time of the hearing.

Both parties reserve the right to amend their List of Witnesses in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order, or upon proper showing, later reasonable notice to the other party. It is understood that each party may rely on the representations of the other party that witnesses appearing on their respective list will be available at the hearing.

EXHIBITS

Joint Exhibits:

1. Job Descriptions for each position proposed for inclusion
2. Modified Job Description for the position of Ambulance Director
3. Employee Personnel policy & Pay and Classification Plan, dated 9/29/98
4. Amendment to Exhibit #3 regarding accumulated vacation

For the Petitioner:

1. Employee evaluations

For the Respondent:

1. No others identified at this time

Both parties reserve the right to amend their List of Exhibits in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order or, upon proper showing, later reasonable notice to the other party. Copies of all exhibits are to be submitted to the presiding officer in accordance with Pub 203.02. It is to be understood by the parties that each party may rely on the representations of the other that the exhibits listed above will be available at hearing.

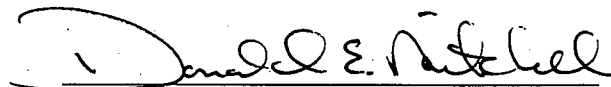
LENGTH OF HEARING

The time being set aside for this hearing is one day. If either party believes additional time is required, written notice of the need for additional time shall be filed with the PELRB within fifteen (15) days of the date of this Order.

DECISION

1. On or before September 13, 2002 the parties' representatives shall meet and confer for the purpose of reviewing the proposed Joint Exhibits, to resolve any issues related to the submission of employee evaluations into evidence and to express requests for any other documents either party feels are reasonably necessary to the preparation of their respective case.
2. On or before September 18, 2002 copies of all previously requested documents or other objects shall be exchanged between the parties. In the event that either party has a reasonable belief that it has not received the information requested in Paragraph #1, above, it shall immediately inform the PELRB, in writing, of the information or document requested and the reason such information or said document is necessary to its case preparation. It shall contemporaneously provide a copy of said notification to the opposing party.
3. The party representatives shall forward any amendments of their Witness and Exhibit lists detailed above to the opposing representative or counsel and to the PELRB no later than five (5) days prior to an evidentiary hearing. The party representatives shall meet, or otherwise arrange, to pre-mark any exhibits, for identification, prior to the time of hearing and have sufficient copies available for distribution at the hearing as required by Pub 203.02.
4. Any additional preliminary, procedural or dispositive motions shall be filed by the parties no later than twenty (20) calendar days prior to the scheduled hearing date.
5. Unless otherwise ordered as a result of the filing of any subsequent motion, an evidentiary hearing between the parties is scheduled at the Office of the Public Employee Labor Relations Board on Wednesday October 2, 2002 beginning at 9:30 A.M.

Signed this 4th day of September, 2002.



Donald E. Mitchell, Esq.
Hearings Officer