



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Town of Seabrook	*	
	*	
	*	
Petitioner	*	Case No. M-0592-22
	*	
v.	*	
	*	Decision No. 2002-145
Seabrook Supervisory Employees	*	
AFSCME Council 93, Local 2301	*	
	*	
Respondent	*	
	*	
	*	

INTERIM ORDER

A hearing was convened at the offices of the Public Employee Labor Relations Board on December 6, 2002.

PARTICIPATING REPRESENTATIVES

For the Petitioner: Douglas M. Mansfield, Esquire, Counsel to the Town of Seabrook

For the Respondent: Daniel A. Cocuzzo, Esquire, Associate General Counsel, AFSCME

At the outset, Petitioner's Counsel raised a procedural issue that eventually resulted in the Town's withdrawal of the first cause of action contained in its "Amended Statement for Modification of Bargaining Unit". That action leaves its second stated cause of action and attendant relief requesting that the PELRB determine that the Seabrook Supervisory Employees Association cannot represent the Deputy Treasurer regarding removal or issues of appointment and that the power to appoint and remove is vested exclusively with the Town Treasurer and Board of Selectmen prohibiting those issues from being subject to collective bargaining.

After discussion, and no objection by the Respondent, the Petitioner's first cause of action was withdrawn. Thereafter, counsel for both parties, filed a brief stipulation of certain facts with the Hearing Officer and it was admitted into the record. Following the Town's withdrawal of all bases for modification, except for that expressed above, both

counsel then agreed that this matter could be determined on the submission of certain stipulations of fact and joint submission of exhibits and supported by legal memoranda and that testimony would not be necessary to a determination of the merits of this petition.

Upon these representations and a review of the proffered stipulation of six facts, the Hearing Officer orders as follows:

1. Administrative notice is hereby provided to both parties that the Hearing Officer will take any and all New Hampshire Revised Statutes Annotated into consideration in rendering a final decision in this matter.
2. The parties shall meet and confer for the purposes of discussing additional material and relevant facts to which they can stipulate and that would assist the Hearing Officer in his decision-making.
3. To the extent that either of the parties are of a good faith belief that a fact is necessary to the record and it is a fact to which the other party cannot stipulate, then any such disputed fact and respective versions of said act or occurrence shall be listed on a document separate from the Stipulation of Facts upon which the parties have agreed.
4. The parties shall also discuss the submission of exhibits, if any, deemed necessary to provide facts that will assist the Hearing Officer in his decision-making.
5. Each party is to submit its legal memorandum in support of its position as to whether or not the bargaining unit shall be modified to limit, in any way, the scope of representation that the exclusive bargaining agent is able to provide on behalf of an individual in the position of Deputy Treasurer.
6. All stipulations, disputed facts, agreed exhibits and memoranda of law are to be filed with the PELRB on or before February 7, 2003. The Town's counsel, as the moving party shall be responsible for filing the stipulations and exhibits as well as a document containing disputed facts, if any.

So Ordered

Signed this 6th day of December, 2002.



Donald E. Mitchell, Esq.
Hearing Officer

Distribution:

Douglas M. Mansfield, Esquire
Daniel A. Cocuzzo, Esquire, Associate General Counsel, AFSCME