



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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Teamsters Local 633,	*	
Newmarket Police Association	*	
	*	
	*	
Petitioner	*	
	*	Case No: P-0776-1
v.	*	
	*	Decision No. 2004-197
Town of Newmarket	*	
	*	
Respondent	*	
	*	
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APPEARANCES

Representing Teamsters Local 633, Newmarket Police Association:

Thomas D. Noonan, Business Agent

Representing the Town of Newmarket:

J. Joseph McKittrick, Esquire

BACKGROUND

Teamsters Local 633, Newmarket Police Association (hereinafter "the Union") filed a Petition for Certification with the Public Employee Labor Relations Board ("PELRB" or "Board") on July 12, 2004 seeking to certify a bargaining unit consisting of all full-time patrolmen, detectives, master detectives, sergeants, dispatchers and permanent part-time dispatchers employed by the Town of Newmarket ("the Town"). The Town filed a "partial exception" to the Union's petition on July 26, 2004. The Town objects to the inclusion of the full-time dispatcher and permanent part-time dispatcher positions within the proposed bargaining unit, contending that said positions fail to share a sufficient community of interest with the remaining positions in the unit.

A hearing on the merits of the Union's petition was conducted on September 15, 2004 before the undersigned hearing officer at the offices of the Board in Concord, New Hampshire. Both parties were present at the hearing with their representatives, and had the opportunity to present witnesses for examination, to undertake cross-examination, and to offer exhibits into evidence. Following closing arguments by the parties' representatives, the record was closed. Upon review of all filings

submitted by the parties and the consideration of all relevant evidence, the hearing officer determines the following:

FINDINGS OF FACT

1. The Town of Newmarket ("the Town") is a public employer within the meaning of RSA 273-A:1 X.
2. Teamsters Local 633, Newmarket Police Association ("the Union") has petitioned the PELRB to become the certified and exclusive bargaining representative of a proposed bargaining unit consisting of full-time patrolmen, detectives, master detectives, sergeants, dispatchers and permanent part-time dispatchers employed by the Town's police department.
3. The Town asserts that it would be inappropriate to include the full-time dispatcher and permanent part-time dispatcher positions within the proposed unit on the grounds that they lack a sufficient community of interest with the remaining positions in the unit, specifically consisting of sworn police personnel.
4. The position of Public Safety Dispatcher "serves as the processing point for virtually all telephone and computer communications entering (or leaving) the [Town's] police department. Additionally, [the position] has significant involvement with walk-in traffic and is also involved in the processing of written correspondence...[The position] has primary responsibility for the initial deployment of public safety personnel and equipment subject to the provisions of the applicable written directives." (Joint Exhibit No. 1, p. 1).
5. The Town utilizes dispatchers on a twenty-four (24) hour per day, seven (7) day per week basis. All dispatchers are subject to being called back to work in the event of an emergency. They dispatch all police, fire and EMS calls for service within the Town.
6. Dispatchers are sworn employees of the Town's police department and are subject to the department's standard operating procedures (SOP's). Dispatchers report to, and are supervised by, the Police Captain. The positions of sergeant and lieutenant, unlike patrol officers, are not in the chain of command for dispatchers. Dispatchers provide cross-training in communications for police officers and, on occasion, police officers perform dispatching duties/functions. Dispatchers may be called upon to assist in the physical search of prisoners.
7. As testified by Dispatcher Lisa Simes, dispatchers serve as a lifeline to patrol officers in the field and try to keep the work environment as safe as possible for them. She agreed that employees within the Town's police department work as a family.
8. Police officers are subject to annual training requirements through the New Hampshire Police Standards and Council. Dispatchers are required to undergo State Police Online Telecommunications System (SPOTS) training and certification every three (3) years. New Hampshire law currently does not require annual training or certification for dispatchers.

9. Chief of Police Rodney Collins testified to differences in the hiring process between dispatchers and police officers, as well as training requirements. He also indicated that police officers, per statute, are authorized to carry a firearm as a condition of employment, whereas this does not apply to dispatchers. The fact that police officers have a statutory right to notice and a hearing, pursuant to RSA 41:48, prior to their removal, as distinguished from dispatchers, was also elicited from his testimony.
10. Under the State of New Hampshire Retirement System, dispatchers are members of Group I, while police officers are members of Group II.

DECISION AND ORDER

JURISDICTION

In accordance with RSA 273-A:8 I, "the board or its designee shall determine the appropriate bargaining unit and shall certify the exclusive representative thereof when petitioned to do so under RSA 273-A:10." N.H. REV. STAT. ANN. 273-A:8 I (1999). Moreover, "the PELRB is given broad subject matter jurisdiction to determine and certify bargaining units to enforce the provisions of that chapter." *Appeal of University System of New Hampshire*, 131 N.H. 368, 370 (1988)(citation omitted). The composition of each bargaining unit is evaluated on its own circumstances on a case-by-case basis. *Appeal of Town of Newport*, 140 N.H. 343, 352 (1995).

SUMMARY OF DECISION

The Union's petition is granted. The positions of full-time dispatcher and permanent part-time dispatcher share a sufficient community of interest with the other positions in the proposed bargaining unit to warrant their inclusion.

DISCUSSION

The formation of a bargaining unit is governed by the provisions of RSA 273-A:8, the provision of the law that establishes criteria for the PELRB to take into consideration when determining an appropriate bargaining unit. N.H. REV. STAT. ANN. 273-A:8 I (1999). RSA 273-A:8 I specifically provides that "[i]n making its determination the board should take into consideration the principle of community of interest. A community of interest may be exhibited by one or more of the following criteria, although it is not limited to such:

- (a) Employees with the same conditions of employment;
- (b) Employees with a history of workable and acceptable collective negotiations;
- (c) Employees in same historic craft or profession; [and]
- (d) Employees functioning within the same organizational unit."

Id. Board regulations set forth additional criteria for determining appropriate bargaining units, specifically referencing:

- (1) A common geographic location of the proposed unit;
- (2) The presence of :
 - (a) Common work rules and personnel practices'
 - (b) Common salary and fringe benefit structures; and

(3) The self-felt community of interest among employees.

N.H. CODE ADMIN. R. PUB 302.02 (b). I find that based upon the record submitted before me that a sufficient community of interest exists for inclusion of the dispatching positions within the proposed bargaining unit.

The dispatchers serve in the same organizational unit as the Town's police officers, that being the Town's police department. There is also a common geographic location for all positions in the proposed unit, that being the Town's police station. Dispatchers are subject to the same standard operating procedures, or work rules, as the other positions referenced within the Union's petition. Although dispatchers do not fill in for police officers, police officers on occasion fill in for dispatchers. In fact, dispatchers provide cross training to police officers in communications. All positions in the proposed unit serve a common purpose in providing public safety to the citizens of the Town through the Town's police department. I also conclude, based upon the testimony of Ms. Simes, that a self-felt community of interest exists between the dispatchers and police personnel. Not only did she describe the vital relationship that dispatchers have with police officers in the field, but it was also apparent from her testimony that a close knit, family atmosphere exists amongst the employees in the proposed unit, police officers and dispatchers alike.

While I recognize that there are notable differences between the dispatching positions and the other police personnel referenced in the Union's petition, including training requirements, hiring and removal processes, chain of command, and applicable retirement programs, these distinctions generally pertain to the very nature of the particular jobs and not as to whether they are still suitable for inclusion within the same bargaining unit. On the contrary, I conclude that there is sufficient evidence of a community of interest, in terms of common working conditions, in order to justify the inclusion of the dispatching positions within the proposed bargaining unit. Accordingly, the Union's petition is granted and the scheduling of a representation election is directed to proceed forthwith.

So ordered.

Signed this 15th day of December, 2004.



Peter C. Phillips, Esq.
Hearing Officer

Distribution:

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