



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

CITY OF CLAREMONT

PETITIONER

and

AFSCME COUNCIL 93, LOCAL 1348

CASE NO. G-0023-2

DECISION NO. 2009-090

RESPONDENT

PRE-HEARING TELEPHONE CONFERENCE MEMORANDUM AND ORDER

Date of Conference: May 6, 2009

Appearances: Petitioner: Mary Walter, Interim City Manager
Respondent: Michael Blair, Staff Representative

Background:

On April 8, 2009 the City of Claremont (City) filed a petition for modification seeking to eliminate the following positions from the certified bargaining unit: DPW Administrative Clerk, Board & Commission Secretary, GCC Secretary II claiming that the anticipated lack of state revenue has resulted in job eliminations. The exclusive representative, AFSCME Council 93, Local 1348 (Union), filed exceptions on April 22, 2009. The Union asserts that the modification petition should be denied because the reduction of labor force due to the "anticipated lack of state revenue" is not a sufficient reason to warrant the modification of the unit.

The undersigned conducted a telephone conference with the above-mentioned representatives of the parties on May 6, 2009. During the conference it became clear that the City's representative did not intend to request the removal of a DPW Administrative Clerk position from the unit but instead intended to request the removal of one of two DPW Administrative Clerks currently employed by the City, while leaving the second DPW Administrative Clerk in the unit. The undersigned has informed the City's representative that under the PELRB rules, the purpose of a modification procedure is to change the composition of the unit by adding or removing the positions and not the specific employees.

The parties also indicated that there is a possibility of an agreement on the composition of the unit.

ISSUES FOR DETERMINATION BY THE BOARD

1. Whether the anticipated lack of revenue resulting in job eliminations is a sufficient reason to warrant a modification of a certified bargaining unit.

WITNESSES

For the City:

1. Guy Santagate, City Manager

The Union did not identify any witnesses at this time.

Both parties reserve the right to amend their Lists of Witnesses in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order. It is understood that each party may rely on the representations of the other party that witnesses appearing on their respective lists will be available at the hearing.

EXHIBITS

For the City:

1. Collective Bargaining Agreement
2. Documents testifying to the budgetary problems
3. Historical documents demonstrating the development of the City personnel structure

For the Union:

1. Collective Bargaining Agreement

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

DECISION

1. "Parties" means the named petitioner and respondent or the counsel/representative appearing in the case.
2. The parties shall jointly prepare and file an Agreed Statement of Stipulated Facts and an Agreed Statement of Contested Facts no later than **May 12, 2009**.
3. The parties shall exchange and file their Witness and Exhibit Lists no later than **May 12, 2009**.
4. The parties shall pre-mark any exhibits as joint or for identification prior to the time of hearing and have sufficient copies available for distribution at the hearing as required by Pub 203.03.

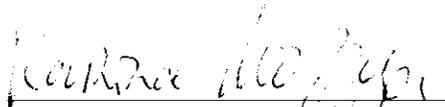
5. The Petitioner shall inform the PELRB of any agreement on the composition of the bargaining unit immediately indicating that the parties agree to the cessation of litigation on the pending matters, in which case the evidentiary hearing will be cancelled.

HEARING

Unless otherwise ordered as a result of the filing of a Motion to Withdraw the Petition or other motion, the evidentiary hearing between the parties will be held on **May 22, 2009 at 9:30 AM** at the offices of the Public Employee Labor Relations Board in Concord. The time set aside for this hearing is 3 hours. If either party believes that additional time is required, written notice of the need for additional time shall be filed with the PELRB at least 10 days prior to the date of hearing.

So ordered.

May 6, 2009


Karina A. Mozgovaya, Esq.
Staff Counsel/Hearing Officer

Distribution:
Mary Walter, Interim City Manager
Michael Blair, Staff Representative