

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
BEFORE THE DIRECTOR OF REPRESENTATION

In the Matter of

TOWNSHIP OF LACEY,

Public Employer,

-and-

DOCKET NO. RO-78-125

OCEAN COUNCIL #12, NEW JERSEY
CIVIL SERVICE ASSOCIATION,

Petitioner.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation which revealed an absence of substantial and material disputed factual issues, directs that a secret ballot election be conducted among the Township's white collar employees to determine whether they desire to be represented by the Petitioner for purposes of collective negotiations.

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DECISION AND DIRECTION OF ELECTION

On January 10, 1978, a Petition for Certification of Public Employee Representative, accompanied by a showing of interest, was filed with the Public Employment Relations Commission (the "Commission") by Ocean Council #12, New Jersey Civil Service Association ("Council #12"), with respect to a proposed unit of all white collar employees employed by the Township of Lacey (the "Township"). The undersigned has caused an administrative investigation of the Petition to be conducted in order to determine the facts. All parties have been advised of their obligations under N.J.A.C. 19:11-2.6(a), as amended, and have been afforded an opportunity thereunder to present documentary and other evidence as well as statements of position, relating to the Petition.

On the basis of the administrative investigation herein, the undersigned finds and determines as follows:

1. The disposition of this matter is properly based upon the administrative investigation herein, it appearing that no substantial and material disputed factual issues exist which may more appropriately be resolved after a hearing. Pursuant to N.J.A.C. 19:11-2.6(b), there

is no necessity for a hearing where, as here, no substantial and material factual issues have been placed in dispute by the parties.

2. The Township of Lacey is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., as amended (the "Act"), is the employer of the employees involved in the Petition, and is subject to the Act's provisions.

3. Ocean Council #12, New Jersey Civil Service Association is an employee representative within the meaning of the Act and is subject to its provisions.

4. Council #71, American Federation of State, County and Municipal Employees, AFL-CIO, was certified by the Commission as the exclusive collective negotiations representative for all clerical employees employed by the Township of Lacey on August 8, 1975.

5. The Township was requested on January 18, 1978 and on March 3, 1978 to provide certain information to the undersigned, including: (1) an alphabetized list of employees described in the Petition, together with their job classifications for the payroll period immediately preceding receipt of the copy of the Petition, and (2) a written statement of position concerning whether it will consent to a secret ballot election to be conducted by the Commission among the employees set forth in the Petition.

6. The Township has certified that the Commission's standard Notice to Public Employees has been posted but has declined to provide a list of employees in the proposed unit and has declined to provide a statement as to whether it agrees to a secret ballot election. In its February 28, 1978 letter, the Township stated "The Lacey Township Committee limits its involvement

in union activities to this extent. We recognize the right of our employees to join any Union they wish. Any information that you desire is available to you in the office of the Municipal Clerk." The Township has not taken any position as to appropriateness of the proposed unit.

7. Council #71, American Federation of State, County and Municipal Employees, AFL-CIO advised the Commission in a letter dated February 3, 1978, that it does not wish to intervene in this matter.

8. Council #12 has provided a valid showing of interest.

9. On March 27, 1978 the undersigned notified the parties that on the basis of the investigation to date, it appeared that no substantial and material factual issues had been placed in dispute and that a valid question concerning representation existed in a prima facie appropriate unit. The undersigned provided an additional opportunity to all parties to present documentary and other evidence as well as statements of position relating to the Petition. The undersigned stated that in the absence of any substantial and material disputed factual issues, he would thereafter issue a Decision and Direction of Election herein. No further evidentiary proffer or statement has been provided by the parties.

Accordingly, there existing no substantial and material factual issues in dispute which may more appropriately be resolved after a hearing, the undersigned finds that the disposition of this matter is properly based upon the administrative investigation herein. Therefore the undersigned finds that the appropriate unit for collective negotiations is all white collar employees employed by the Township of Lacey, but excluding all other employees including managerial executives,

confidential employees, professional employees, craft employees, police and supervisors within the meaning of the Act.

Pursuant to N.J.A.C. 19:11-2.6(b)(3), the undersigned directs that an election be conducted among employees described above. The election shall be conducted no later than thirty (30) days from the date set forth below.

Those eligible to vote are employees set forth above who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were out ill, or on vacation, or temporarily laid-off, including those in military service. Employees must appear in person at the polls in order to be eligible to vote. Ineligible to vote are employees who quit or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date.

Pursuant to N.J.A.C. 19:11-9.6, the Township is directed to file with the undersigned and with Council #12 an election eligibility list, consisting of an alphabetical listing of the names of all eligible voters together with their last known mailing addresses and job titles. In order to be timely filed, the eligibility list must be received by the undersigned no later than ten (10) days prior to the date of the election. A copy of the eligibility list shall be simultaneously filed with Council #12 with statement of service to the undersigned. The undersigned shall not grant an extension of time within which to file the eligibility list except in extraordinary circumstances.

Failure to comply with the foregoing shall be grounds for setting aside the election whenever proper objections are filed pursuant to N.J.A.C. 19:11-9.2(h). Additionally, the undersigned may in the exercise of his reasonable discretion, issue a subpoena or direction requiring the production of the eligibility list and in the event of noncompliance therewith, may institute appropriate enforcement pursuant to R. 1:9-6.

Those eligible to vote shall vote whether or not they desire to be represented for the purposes of collective negotiations by Ocean Council #12, New Jersey Civil Service Association.

The exclusive representative shall be determined by a majority of the valid ballots case. The election directed herein shall be conducted in accordance with the Commission's Rules.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Carl Kurtzman, Director
of Representation

DATED: April 10, 1978
Trenton, New Jersey