

D.R. No. 2007-5

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

In the Matter of

CITY OF ENGLEWOOD,

Public Employer,

-and-

Docket No. AC-2006-7

INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
LOCAL 11,

Petitioner.

SYNOPSIS

The Director of Representation amends the Certification of Representative to reflect the Englewood DPW Association's affiliation with International Brotherhood of Teamsters, Local 11. The Director finds that the petitioner has complied with the requirements set forth in N.J.A.C. 19:11-1.6. The Certification of Representative is amended to reflect the majority representative as the Englewood DPW Association, affiliated with International Brotherhood of Teamsters, Local 11.

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Appearances:

For the Public Employer,
(Cheryl G. Fuller, City Manager)

For the Petitioner,
Kroll Heineman Giblin, attorneys
(Curtiss T. Jameson, of counsel)

DECISION

On June 23, 2006, the International Brotherhood of Teamsters, Local 11 (Local 11) filed a Petition for Amendment of Certification with the Public Employment Relations Commission (Commission) pursuant to N.J.A.C. 19:11-1.6. Local 11 seeks to amend the Certification of Representative of Englewood DPW Association (Association) to reflect its "merger" with the Association.^{1/} I have conducted an investigation into the matters

^{1/} Although the Petitioner characterized the proposed amendment as a merger, the Petition was treated as a request to affiliate the Association with Local 11. An amendment of certification retains the identity of the existing certified
(continued...)

raised by this petition. N.J.A.C. 19:11-2.2. The public employer, the City of Englewood (City), does not oppose the petition. There are no substantial, material facts in dispute which would require a hearing. N.J.A.C. 19:11-2.6(c)(5).

I make the following:

FINDINGS OF FACT

On May 9, 2006, the Commission certified the Association as the exclusive representative of a negotiations unit of all non-supervisory blue collar employees employed by the City in its Department of Public Works (DPW) (Commission Docket No. RO-06-69).

Michael Curcio is an organizer employed by Local 11. Curcio submitted an affidavit that on or about June 14, 2006, a Meeting Notice was posted at the Englewood DPW garage advising employees that a meeting would occur on Wednesday, June 21 for the express purpose of merging the Association into Local 11.

Curcio also certified that the election was conducted by secret ballot and that of the Association's fifty-seven (57) members, forty-five (45) attended the meeting and voted unanimously in favor of the merger. The election tally was recorded by notation of Association members William Conyers and John Cioffi on the reverse of the attached sign-in sheet. The

1/ (...continued)
representative and does not substitute one organization for another. Consequently, here the Petition seeks confirmation that the Association is now affiliated with Local 11.

Petitioner provided the actual secret ballots cast on June 21, 2006.^{2/} Curcio also affirms that the Association's officers, President Joe Jurz and Vice President David Doyle, remain unchanged as a result of the affiliation with Local 11. The composition and size of the bargaining unit also remains unchanged. The Executive Board of the Association supports the affiliation.

On August 7, 2006, after receiving requested supplemental materials from the petitioner, we advised the City about the proposed amendment. The City did not object to the petition.

ANALYSIS

The Commission's rules establish procedures for amending certifications and our case law establishes the standards for granting such petitions. N.J.A.C. 19:11-1.6; County of Union, D.R. No. 2005-7, 30 NJPER 496 (¶169 2004); Parsippany-Troy Hills Twp., D.R. No. 94-20, 20 NJPER 280 (¶25079 1994), req. for rev. denied P.E.R.C. No. 94-119; 20 NJPER 279 (¶25141 1994); Cape May Assignment Judge, et al., P.E.R.C. 85-60, 11 NJPER 91 (¶16039

^{2/} The record shows that Local 11's initial submission of the petition did not include notice of an affiliation vote or a copy of the ballot in support of its affidavit attesting to a secret ballot election. Our rules specifically require "an attached copy of the ballot." N.J.A.C. 19:11-1.6(c). In response to our request, Local 11 submitted a revised affidavit of Michael Curcio, a copy of the meeting notice, the original attendance sheet containing signatures of 45 attendees, and the 45 original ballots used in the affiliation election on June 21, 2006.

1985). N.J.A.C. 19:11-1.6(c) requires such a petition be supported by an affidavit attesting that the membership of the certified employee representative voted in favor of the change in name and affiliation. Such affidavit shall specify that:

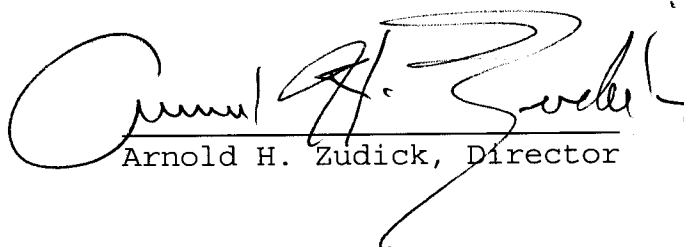
1. The membership was given advance and adequate notice of the election, as evidenced by an attached copy of a notice of election and a statement of the date of the notice and the manner in which it was provided to members;
2. The election was conducted by secret ballot, as evidenced by an attached copy of the ballot, and was held within six months of the filing of the petition;
3. A majority voted in favor of the change in name and affiliation, as evidenced by a document setting forth the results; and
4. The organization's officers and the unit structure remain unchanged.

Additionally, to record an affiliation, an employee organization is required to show that its affiliation procedure afforded the membership with a degree of due process. Adequate due process will be found where the affiliation procedures provide the members with advance notice of the affiliation vote, an opportunity to discuss the affiliation prior to the vote, and the chance to participate in the affiliation election. No. Hudson Reg. Fire and Rescue, D.R. No. 2000-13, 26 NJPER 257 (¶31101 2000); Township of Middletown, et al., P.E.R.C. No. 2000-47, 26 NJPER 59, 60 (¶31020 1999); Parsippany Troy Hills Tp., 20 NJPER at 280.

I am satisfied that the Petitioner has met all of the requirements for amendment of certification and has afforded its members adequate due process. There was appropriate advance notice of the election to permit members the opportunity to discuss the issue prior to the vote and, subsequently, members were allowed to participate in a secret ballot election on the proposed affiliation. Further, the Association's officers and the structure of the negotiations unit have remained unchanged. The City and the Public Works Association do not object to the proposed amendment.

Accordingly, the Certification of Representative is amended to reflect that the exclusive negotiations representative is now Englewood DPW Association, affiliated with International Brotherhood of Teamsters, Local 11.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION



Arnold H. Zudick, Director

DATED: September 27, 2006
Trenton, New Jersey

A request for review of this decision by the Commission may be filed pursuant to N.J.A.C. 19:11-8.1. Any request for review must comply with the requirements contained in N.J.A.C. 19:11-8.3.

Any request for review is due by October 10, 2006.