

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF NORTH BERGEN

Public Employer

and

Docket No. RO-56

LOCAL 11, INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHAUFFEURS, HELPERS, AND  
WAREHOUSEMEN OF AMERICA

Petitioner

DECISION AND DIRECTION OF ELECTION

Pursuant to a Notice of Hearing to resolve a question concerning the representation of certain employees of the Township of North Bergen, a hearing was held on July 14, 1970 before Hearing Officer Sally Parker at which all parties were given an opportunity to examine and cross-examine witnesses, present evidence and to argue orally. Thereafter, on November 6, 1970, the Hearing Officer issued her Report and Recommendations. No exceptions have been filed to that report. The Executive Director has considered the record and the Hearing Officer's Report and Recommendations, and on the basis of the facts in this case finds:

1. The Township of North Bergen is a public employer within the meaning of the Act and is subject to the provisions of the Act.
2. Local 11, International Brotherhood of Teamsters, Chauffeurs, Helpers and Warehousemen of America is an employee representative within the meaning of the Act.
3. The public employer refuses to recognize the petitioner as the exclusive representative of certain employees; a question concerning representation exists and the matter is appropriately before the Executive Director for determination.
4. In the absence of the exceptions to the Hearing Officer's Report and Recommendations, attached hereto and made a part hereof, the Executive Director adopts the Hearing Officer's findings and recommendations except as modified herein.
5. The Hearing Officer, with record support, found appropriate the unit petitioned for. That is a sufficient resolution of unit question and need not be followed, as the Hearing Officer did, with a finding that the same unit is also the appropriate unit. In this case the unit found appropriate is: "All employees of the Department of Public Works of the Township of North Bergen, excluding office clerical, professional and craft employees, managerial executives, police and supervisors within the meaning of the Act."

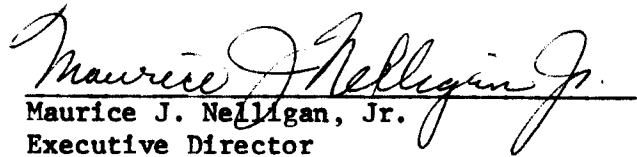
6. The Executive Director directs that a secret-ballot election shall be conducted among the employees in the unit found appropriate. The election shall be conducted no later than thirty (30) days from the date set forth below.

Those eligible to vote are employees set forth in Section 5 who were employed during the payroll period immediately preceding the date below, 1/ 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.

Those eligible to vote shall vote on whether or not they desire to be represented for the purpose of collective negotiations by Local 11, International Brotherhood of Teamsters, Chauffeurs, Helpers and Warehousemen of America.

The majority representative shall be determined by a majority of the valid votes cast.

The election directed herein shall be conducted in accordance with the provisions of the Commission's Rules and Regulations and Statement of Procedure.

  
Maurice J. Nelligan, Jr.  
Executive Director

DATED: March 17, 1971  
Trenton, New Jersey

1/ The Hearing Officer's recommended eligibility date is not adopted.

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LOCAL 11, INTERNATIONAL BROTHERHOOD  
OF TEAMSTERS  
Petitioner

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Docket No. RO-56

Appearances: Mr. Nicholas S. Schloeder, Esquire, for North Bergen Township  
Mr. David Solomon, Esquire, for Local 11, International  
Brotherhood of Teamsters

Witnesses: For Local 11, International Brotherhood of Teamsters:  
Mr. Howard Martin  
Mr. John Bassarab  
For Township of North Bergen:  
Mr. James Principe

HEARING OFFICER'S REPORT AND RECOMMENDATIONS

Pursuant to a Notice of Hearing issued by the Public Employment Relations Commission, a hearing was held on July 14, 1970, before the undersigned Hearing Officer of the Commission to resolve issues concerning the question of representation involved and to make a report and recommendation in this matter.

The Parties

The petitioner, Teamsters Local 11, which instituted this claim of representation is a union organization which exists for the purpose, among others, of "representing employees in the public sector" (TR-22); as such it is found to be a "representative", as that term is defined in Chapter 303.

The employer, the Township of North Bergen, is a municipal entity duly constituted under the laws of the State of New Jersey and is, accordingly, found to be a "public employer" as that term is defined in the Act.

The Union having requested of the Township and the Township having refused to recognize the Union as the exclusive representative of a unit of all Public Works employees (with certain exceptions), a question of representation of public employees exists, and the matter is appropriately before the Commission.

THE APPROPRIATE UNIT

Position of the Parties

The unit of employees alleged by the petitioner to be an appropriate negotiating unit for purposes of the Act consists of "all employees of the Department of Public Works excluding clericals, supervisors, professionals, and guards".

The employer objections voiced during this proceeding do not relate to the unit question as such. Rather, he raised broader matters not within the purview of this Hearing Officer. The objections raised

refer to the extent to which the statute carries out the declared policy of Chapter 303. Further, question is raised as to whether Chapter 303, "in light of the Wagner Act, the Taft-Hartley Act and other acts which expressly say that they have nothing to do with political subdivisions of states", can claim jurisdiction in the present case.

The Hearing Officer must refer these employer-raised questions to appropriate forums, and proceed with the unit question here involved assuming the validity of the New Jersey Employer-Employee Relations Act, and the appropriateness of this hearing.

#### Community of Interest

Testimony of witness James Principe, Superintendent of Public Works, makes clear that the Department of Public Works is functionally a self-contained subdivision of the Township, with little or no employee interchange with any other department or subdivision of that government. It is chiefly charged with the maintenance of Township streets and structures, including its water and sewage system. For this purpose, it employs 47 laborers and 1 repairman. Mr. Principe was asked:

"Q: Mrs. Parker: Would you say that there is an interchangeability between personnel in the Public Works Department and other departments? Would your men work in other departments also?

A: The Witness: Well, we are never called to do it unless there was a real emergency, outside of that we are strictly in Public Works.

Q: Is your department the only one that has labor(er) titles?

A: No, they have labor(er) titles in the Park Department too.

Q: And do they do the same work?

A: Well, they more or less take care of the gardens and the flowers in the parks.

Q: And your men work principally on the streets, is that correct?

A: Streets and sewers, correct."

The record shows that apart from Public Safety (Fire and Police), the Department of Public Works is the largest departmental employer in the Township. It is geographically separate from other departments, and the employees have historically been treated as a separate and distinct unit. Public Works is unique among township departments in providing the services it does.

The transcript also shows the Public Works Department as exercising a higher degree of self-determination and authority with respect to employee regulation. The Superintendent of Public Works was asked:

"Q: In terms of supervision...you...and the Director, you're in charge of hiring, firing, discharge, paying of wages?

A: No, Ma'am, this is strictly up to the Director.

Q: The Director?

A: Right

Q: The Director of the Department?

A: Yes

Q: As Mayor or as Director?

Mr. Schloeder: As Director.

A: He is the Director of Public Works

Q: So this is done within the Department itself?

A: Right

In determining the appropriate negotiating unit the Act sets forth the following criteria: (1) The unit "shall be defined with due regard for the community of interest among the employees concerned", and (2) as a rule the unit shall not include "both supervisors and non-supervisors" and, unless separately approved by appropriate vote, there shall not be a commingling of "professional and non-professional employees" or "craft and non-craft employees".

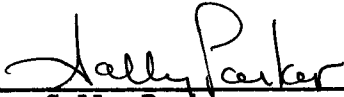
The record is clear with respect to the statutory standards set forth above that the negotiating unit sought by the petitioner is an appropriate one. Further, the Act gives employees the right freely to form, join, and assist any employee organization or to refrain from such activity; the organization selected by a majority of employees in a unit appropriate for collective negotiations must be recognized and negotiated with by the public employer as the exclusive representative.

Accordingly, the unit sought by the petitioner, since it does not run counter to the expressed policies of the Act, implements the free choice of the employees and is found to be the appropriate unit.

#### RECOMMENDATIONS

Therefore, the Hearing Officer finds and concludes that the appropriate negotiating unit shall consist of all employees of the Department of Public Works of the Township of North Bergen exclusive of Managerial Executives, Supervisors as defined in the Act, Professional, Craft and Clerical employees, and Police. It is further recommended that the Commission order a secret ballot election to be conducted with expedition among all employees of the Township of North Bergen, Depart-

ment of Public Works, in the unit described, who were on the payroll of that Department on the date of the hearing herein, July 14, 1970. The notice of date, hours, and place of election shall be determined by the Commission in accordance with its rules and regulations.

  
Sally Parker  
Hearing Officer

Dated: November 6, 1970  
Trenton, New Jersey

SP:SM