

D.R. NO. 79-5

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

In the Matter of

TOWNSHIP OF LITTLE EGG HARBOR,

Public Employer,

-and-

DOCKET NO. RO-78-190

COUNCIL #71, AMERICAN FEDERATION OF
STATE, COUNTY AND MUNICIPAL EMPLOYEES,
AFL-CIO,

Petitioner.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, directs a secret ballot election among the white collar employees of the Township of Little Egg Harbor, to determine whether they wish to be represented for the purposes of collective negotiations by Council #71, American Federation of State, County and Municipal Employees, AFL-CIO. The secret ballot election is to be conducted within thirty (30) days. The Employer has not consented to the conduct of the election but has not affirmatively raised any objections to an election nor questioned the appropriateness of the petitioned-for unit.

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Appearances:

For the Public Employer,
Gasser & Cafarelli, Esqs.
(George M. Cafarelli, of Counsel)

For the Petitioner,
John Hemmy, Staff Representative

DECISION AND DIRECTION OF ELECTION

On May 26, 1978, a Petition for Certification of Public Employee Representative was filed with the Public Employment Relations Commission (the "Commission") by Council #71, American Federation of State, County and Municipal Employees, AFL-CIO ("Council #71") seeking to represent a unit of "all white collar employees" employed by the Township of Little Egg Harbor (the "Township"). The Petition is supported by an adequate showing of interest as required by N.J.A.C. 19:11-1.2.

The undersigned has caused an administrative investigation to be conducted in order to determine the facts. All parties have been provided with an opportunity to present documentary and other evidence raising substantial and material factual issues which would warrant the convening of a hearing pursuant to N.J.A.C. 19:11-2.6.

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 and it appearing that no substantial and material factual issues exist which may more appropriately be resolved after a hearing. Pursuant to N.J.A.C. 19:11-2.6(c) 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 Little Egg Harbor 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 who are the subject of this proceeding and is subject to the provisions of the Act.

3. Council #71, American Federation of State, County and Municipal Employees, AFL-CIO is an employee representative within the meaning of the Act and is subject to its provisions.

4. On May 26, 1978, Council #71 filed a Petition for Certification of Public Employee Representative, supported by

an adequate showing of interest, with respect to a proposed collective negotiations unit consisting of all white collar employees employed by the Township.

5. The unit petitioned-for is a prima facie appropriate collective negotiations unit.

6. On June 8, 1978, a letter was sent by Elizabeth J. Allen, Township Clerk, furnishing the undersigned with a list of employees in the proposed unit and requesting an extension of time for the submission of the statement of position concerning this matter.

7. On June 12, 1978, the Township certified that the Commission's standard Notice to Public Employees had been posted.

8. On June 22, 1978, the Township attorney advised the staff member assigned to investigate the instant matter that Council #71's Petition would be placed on the agenda for discussion by the Township at its June 29, 1978 meeting. In a subsequent letter, the Township informed the staff member that the discussions at the June 29, 1978 meeting were inconclusive and that additional discussions would occur at a meeting scheduled for July 13, 1978. Following that meeting, the Township attorney informed the staff member, by letter dated July 24, 1978, that the Township Committee had not been able to develop a majority position concerning either voluntary recognition or agreement for the conduct of a consent election. The Township attorney further stated that there did not exist any substantial and material factual issues in dispute.

9. On August 1, 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 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 Little Egg Harbor, but excluding 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 #71 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 #71 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).

Those eligible to vote shall vote whether or not they desire to be represented for the purposes of collective negotiations by Council #71, American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME).

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

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Carl Kurtzman, Director

DATED: August 14, 1978
Trenton, New Jersey