

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

In the Matter of

COUNTY OF MORRIS PARK
COMMISSION,

Public Employer,

-and-

MORRIS COUNCIL #6, NEW JERSEY
CIVIL SERVICE ASSOCIATION,

DOCKET NO. RO-80-39

Petitioner,

-and-

LOCAL 2276, COUNCIL 52,
AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL EMPLOYEES,

Intervenor.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, directs an election among full-time park personnel to ascertain their representational desires. Although the incumbent representative claimed that a fair election could not be conducted at this time, the Director determines, in the absence of the presentation of evidence to support this claim, that the purposes of the Act are best served by the prompt conduct of an election. The Director also observes that the filing of a clarification of unit petition subsequent to the filing of a certification petition does not affect the processing of a certification petition.

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Appearances:

For the Public Employer
Harper & O'Brien, Esqs.
(John J. Harper, of Counsel)

For the Petitioner
Morris & Hantman, P. A.
(Allen Hantman, of Counsel)

For the Intervenor
Michael Lanni, Director
Local 2276, Council 52, AFSCME

DECISION AND DIRECTION OF ELECTION

On September 20, 1979, a Petition for Certification of Public Employee Representative, supported by an adequate showing of interest, was filed with the Public Employment Relations Commission (the "Commission") by Morris Council #6, New Jersey

Civil Service Association ("Council #6"), seeking to represent all full-time salaried employees employed by the Morris County Park Commission (the "Park Commission"). Local 2276, Council 52, AFSCME ("Local 2276") is the current majority representative of a collective negotiations unit comprised of these employees. The undersigned has caused an administrative investigation to be conducted into the matters and allegations involved in the Petition in order to determine the facts and to obtain the positions of the parties.

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

1. The Morris County Park Commission is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the "Act"), is the employer of the employees who are the subject of this Petition, and is subject to the provisions of the Act.

2. Morris Council #6, New Jersey Civil Service Association and Local 2276, Council 52, American Federation of State, County and Municipal Employees, are employee representatives within the meaning of the Act and are subject to its provisions.

3. Council #6 has filed a Petition for Certification of Public Employee Representative seeking an election among employees in a unit consisting of full-time salaried employees of the Park Commission. This unit is currently represented by Local 2276. Council #6 seeks the conduct of a secret ballot election by the Commission.

4. Local 2276 does not consent to a secret ballot election "because it is the position of AFSCME that a fair election cannot be held at this time." Local 2276 filed an Unfair Practice Charge against Council #6 and against the Park Commission on September 28, 1979, alleging that activities of certain supervisory employees on behalf of Council #6 "have created a climate of fear among the employees within the AFSCME bargaining unit."

On October 23, 1979, the undersigned provided Local 2276 an opportunity to present documentary and/or other evidence with respect to its claim that a representation election could not be fairly conducted. Local 2276 failed to provide such evidence within the required time. Accordingly, on December 3, 1979, the undersigned denied Local 2276's request that the representation proceeding be blocked.

5. The Park Commission initially declined to consent to the conduct of an election until the resolution of certain outstanding Clarification of Unit Petitions currently before the Commission. ^{1/} By letter dated December 3, 1979, the undersigned

1/ On August 28, 1979, Local 2276 filed a Clarification of Unit Petition, Docket No. CU-80-17, seeking clarification of the title Superintendent. On September 17, 1979, the Park Commission filed a Clarification of Unit Petition, Docket No. CU-80-21 and thereby joined Local 2276 in requesting clarification of the Superintendent title. Additionally, the Park Commission, in its Petition, seeks the removal of the Assistant Superintendent - Golf Courses, Assistant Rink Manager and Refrigeration Engineer from the unit. On October 1, 1979, Local 2276 amended its Petition by requesting that "All Supervisory titles including Foreman and Assistant Foreman, should be clarified into separate primary and secondary supervisory units." The most recent collective negotiations agreement between Local 2276 and the Park Commission contains a recognition clause describing the unit as including all the above enumerated titles. The current unit consists of approximately 100 individuals.

advised the parties that the clarification disputes raised prior to the filing of the instant Certification Petition appeared to be limited to several individuals and did not raise a substantial factual issue which required resolution prior to an election. The undersigned advised of the challenge procedure available in Commission conducted elections whereby eligibility disputes can be resolved subsequent to the conduct of an election. The undersigned also noted the Commission's policy that clarification of unit petitions filed after the filing of a certification petition may not affect the processing of a certification petition. Subsequent to the December 3 letter, the Park Commission agreed to the direction of an election in which the employees, whose unit status is in dispute, may vote subject to challenge.

In accordance with the December 3 letter, all parties were provided an opportunity to present documentary and other evidence raising substantial and material factual disputes. No additional materials have been presented by either Council #6 or Local 2276.

Accordingly, there existing no material and substantial 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. Since Local 2276 has failed to present documentation in support of the claim that a "fair election cannot be held at this time," the undersigned finds that a valid question concerning

representation exists in a prima facie appropriate unit, that the policies of the Act will be effectuated by the conduct of a secret ballot election, and that an election will reflect the free choice of the employees in the appropriate unit. The appropriate unit for collective negotiations is: all permanent, full-time employees of the Morris County Park Commission, excluding managerial executives, confidential employees and police employees within the meaning of the Act. ^{2/} Those employees whose unit status is in dispute may vote subject to the assertion of a challenge to their voting eligibility by any party herein.

Pursuant to N.J.A.C. 19:11-2.6(b)(3), the undersigned directs that an election be conducted among the employees

2/ The current collective negotiations agreement between the Park Commission and Local 2276 contains a list of titles included in the unit, as follows: Clerk-typist, Clerk-Stenographer, Receptionist/Clerk-typist, Clerk Administration, Administrative Secretary, Engineering Aide, Cashier, Custodian, Matron, Mechanic Helper, Carpenter Apprentice, Other Helpers and Apprentice, Tree Trimmer, Skate Guard Supervisor, Assistant Skate Shop Supervisor, Park Maintenance, Golf Course Maintenance, Construction, Tree Climber, Plantsman, Carpenter, Painter, Plumber, Electrician, Assistant Foreman, Mechanic, Skate Shop Supervisor, Teacher Naturalist, Educational Coordinator Operating Engineer, Principal Skate Guard, Senior Teacher, Naturalist, Foreman, Pro-manager, Assistant Rink Manager, Refrigeration Engineer, Assistant Superintendent Golf Courses, Superintendent of Maintenance, Superintendent of Building Construction, Superintendent of Horticulture, but excluding the Secretary-Director, Assistant Director, Director of Revenue Producing Facilities, Director of Fiscal Resources, Director of Engineering Services, Park Engineer, Engineering Inspector-Designer, Director of Horticulture, Manager-Mennen Arena, Chief Engineer-Mennen Arena, Park Administrator, Director of Procurement, Safety and Golf Courses, Director of Outdoor Education Centers, Confidential Employees (which now include Bookkeepers and Personnel Clerk), all members of the Morris County Park Police Ranger Division and part-time 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 the 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 resigned or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date.

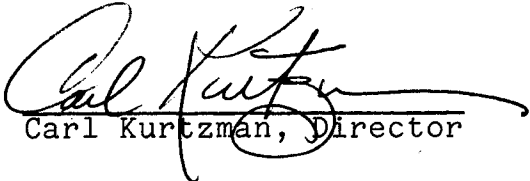
Pursuant to N.J.A.C. 19:11-9.6, the Park Commission is directed to file with the undersigned and with Council #6 an election eligibility list consisting of the names of all eligible voters together with their last known mailing addresses and job titles. In order to be timely filed, the eligibility list 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 #6 and Local 2276 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.

Those eligible to vote shall vote on whether or not they desire to be represented for the purpose of collective

negotiations by Morris Council #6, New Jersey Civil Service Association or Local 2276, Council 52, AFSCME, or neither.

The exclusive representative, if any, shall be determined by the majority of valid ballots cast by the employees voting in the election. The election directed herein shall be conducted in accordance with the provisions of the Commission's rules. ^{3/}

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Carl Kurtzman, Director

DATED: December 21, 1979
Trenton, New Jersey

^{3/} The appropriate certification resulting from the election shall be conditioned upon the ultimate disposition of the Unfair Practice Charge.