

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of

CITY OF HACKENSACK

-and-

LOCAL 1970, AMERICAN FEDERATION OF  
STATE, COUNTY AND MUNICIPAL EMPLOYEES,  
AFL-CIO

DECISION AND DIRECTION OF ELECTION

Pursuant to a Notice of Hearing to resolve a question concerning the representation of certain employees of the City of Hackensack, a hearing was held before ad hoc Hearing Officer Joseph F. Wildebush on various dates between April 2 and May 5, 1969 at which all parties were given an opportunity to present evidence, examine and cross-examine witnesses and argue orally. On May 12, 1969 the Hearing Officer issued his Findings of Fact and Recommendations. No Exceptions have been filed to the Hearing Officer's Findings of Fact and Recommendations. The Commission has considered the Hearing Officer's Findings of Fact and Recommendations and finds:

1. The City of Hackensack is a public employer within the meaning of Section 3 (c) of the Act and is subject to the provisions of the Act.
2. Local 1970, American Federation of State, County and Municipal Employees; Bergen Council No. 5, New Jersey Civil Service Association and Communication Workers of America are employee representatives within the meaning of Section 3 (e) of the Act.

3. The employee representative organizations claim to be the majority representative of employees involved in the proceeding.<sup>1/</sup> The public employer having failed to recognize any employee organization as the exclusive representative, a question concerning the representation of public employees exists and the matter is appropriately before the Commission for determination.
4. The Hearing Officer's Findings of Fact and Recommendations, attached hereto and made a part hereof, are adopted, except as modified herein.
5. In accordance with the agreement of the parties and the provisions of the Act the appropriate collective negotiations unit is found to be "all employees of the Department of Public Works of the City of Hackensack including Laborers (heavy and regular), Heavy equipment operators, Truck drivers, Equipment Operator sweeper, Municipal dump caretaker, Garage attendant, Mechanical repairman, Body and fender repairman, Tree trimmer, Building maintenance worker, Senior maintenance repairman, Tree climber, Police and fire signal system repairman, Maintenance repairman, Pumping station operator, Park maintenance man, Senior park maintenance man, Gardener and Traffic maintenance man; but excluding part time employees, professional employees, craft employees<sup>2/</sup> and supervisors within the meaning of the Act".

<sup>1/</sup> By wire dated May 16, 1969 the Communication Workers of America withdrew from this proceeding.

<sup>2/</sup> The unit agreed to by the parties includes the job classification "maintenance repairman plumber". Section 8 (d) of the Act provides that except where dictated by established practice, prior agreement or special circumstances, no unit shall be appropriate which includes "both craft and non craft employees unless a majority of such craft employees vote for inclusion in such unit". Inasmuch as the record

6. In accordance with the Commission's findings, set forth above, the Commission directs that a secret-ballot election shall be conducted among the employees in the unit found appropriate.<sup>3/</sup> The election shall be conducted as soon as possible but not later than thirty (30) days from the date set forth below.

Eligible to vote are all employees listed in Section 5 who were employed during the payroll period immediately preceding the date below,<sup>4/</sup> including employees who did not work during that period because they were 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 purposes of collective negotiations

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2/ (Continued)

does not reveal whether or not "maintenance repairman plumber" is a "craft employee", the Commission will permit employees in this classification to vote subject to challenge without resolving their status at this time.

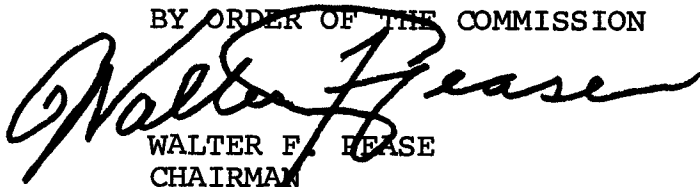
3/ The Commission makes no findings at this time regarding the mechanics of the conduct of the election. The parties, by agreement, may provide for the use of voting machines when they agree to bear the additional expense involved in using machines and they may feasibly be used.

4/ The eligibility period is in conformity with the Commission's practice established in prior decisions.

by Local 1970, American Federation of State, County and Municipal  
Employees, AFL-CIO.<sup>5/</sup>

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

BY ORDER OF THE COMMISSION

  
WALTER F. HEASE  
CHAIRMAN

DATED: June 13, 1969  
Trenton, New Jersey

5/ In addition to the Hearing Officer's basis for not including  
Bergen Council No. 5, N. J. Civil Service Association on the  
ballot the Commission specifically finds that the Association  
has failed to submit a current showing of interest which would  
entitle it to participate in the election directed herein.

In the Matter of the Representation and Related Matters Concerning Claims of Representation made to the City of Hackensack, New Jersey, with Regard to Certain Employees of the Department of Public Works; and also Matters Raised Concerning Allegations that Chapter 303 New Jersey Public Laws 1968 has been violated by the City of Hackensack, New Jersey.

FINDINGS OF FACT and RECOMMENDATIONS

INTERESTED PARTIES

City of Hackensack
Joseph J. Squillace, City Manager
City Hall
Hackensack, New Jersey 07602

Represented By:
Robert E. Murray, Esq.
Metzler Associates
33 Halsey Street
Newark, New Jersey

Local No. 1970, A.F.S.C.M.E., AFL-CIO
211 Chestnut Street
Roselle, New Jersey 07203

Attention: Daniel J. Sullivan, Business Manager

Miss Louise Brizzi, President
Bergen Council No. 5
New Jersey Civil Service Association
Children's Home
125 Essex Street
Hackensack, New Jersey 07601

Edward Schultz, Representative
Communication Workers of America, AFL-CIO
355 Chestnut Street, 2nd floor
Union, New Jersey 07083

Hearings in connection with the above matter were held on April 2, 1969, April 9, 1969, April 16, 1969, and May 5, 1969. The first two hearings were held at the New Jersey State Board of Mediation; the last two meetings were held at the Robert Treat Hotel, Newark, New Jersey. The expenses of the last two meetings covering room rental and telephone calls were to be shared by the City of Hackensack and Local No. 1970.

Miss Louise Brizzi, President of Bergen Council No. 5, New Jersey Civil Service Association was present at the first meeting held on April 2, 1969 but did not attend any of the subsequent meetings although she was informed of the dates and places of the meetings.

Daniel J. Sullivan and Robert R. Klingensmith of the American Federation of State, County and Municipal Employees, AFL-CIO, on behalf of Local No. 1970 attended all meetings.

The City of Hackensack was represented at all hearings by Joseph J. Squillace and Robert E. Murray, Esq.

The Communication Workers of America, AFL-CIO, represented by Edward Schultz, appeared at the last meeting for the first time and claimed an interest in representing the eligible employees of the Department of Public Works.

At the hearing held on April 16, 1969, a tentative agreement concerning a consent election was reached between the City of Hackensack and Local No. 1970. However, while the parties were in the process of drafting the language of the agreement, the City of Hackensack withdrew its consent.

At the hearing held on May 5, 1969, the City of Hackensack again reached an agreement with Local No. 1970 for a consent election. Because of the intervention of the Communication Workers of America, AFL-CIO which had to be given an opportunity to substantiate its claim of interest, and because of the previous claim of interest on the part of Bergen Council No. 5, New Jersey Civil Service Association, but which did not at the time of the last hearing ever furnish any proof of interest, the Hearing Officer decided at the hearing on May 5, 1969 to permit the Bergen Council No. 5 to furnish such proof by the afternoon of May 7, 1969, and he also permitted the C.W.A. to furnish its proof by that time. The short notice was predicated on the fact that it had to be assumed that both organizations had sufficient proof of interest at the time they had originally asserted their claims. The original letter of interest of Bergen Council No. 5 was dated March 11,

1969, and the original letter of interest of the Communication Workers of America was dated March 18, 1969. Both letters were addressed to the City of Hackensack. The Hearing Officer required both of these organizations, namely, Bergen Council No. 5, and the C.W.A. to furnish signed authorization cards of approximately 10% of the eligible employees, or roughly ten cards, but these cards could not be dated after the dates of the respective letters of interest.

The Communication Workers of America did furnish the Hearing Officer on May 7, 1969 with a sufficient per cent of signed authorization cards, enough to justify the appearance of said authorization on the ballot. However, Mr. Edward Schultz, representative of the Communication Workers of America, telephoned the undersigned on May 8, 1969 and informed him that the C.W.A. may not desire to be on the ballot, and that the Public Employment Relations Commission will be notified by Friday, May 16, 1969 as to whether the C.W.A. would withdraw as an interested party. The Hearing Officer requested Mr. Schultz to notify P.E.R.C. one way or the other in writing as to the intentions of C.W.A. in this connection.

Miss Louise R. Brizzi, president of Bergen Council No. 5, Civil Service Association, by letter dated May 5, 1969, and delivered to the office of the Hearing Officer, stated that Bergen Council No. 5 has no signed authorization cards, but relies on a motion adopted by the membership at a meeting held on February 20, 1968 to the effect that Bergen Council No. 5 act as the bargaining agent for county employees in all municipalities in the classified service. The above letter with the attached motion is not acceptable as legal proof of interest in a representation matter. The letter and the attached motion is enclosed herewith and made a part of this report.

Local No. 1970, A.F.S.C.M.E. has filed with the Hearing Officer a very substantial showing of interest indicated by signed authorization cards.

At the hearing held on May 5, 1969, by the Hearing Officer,

the following stipulation was arrived at by the City of Hackensack and Local No. 1970 with Edward Schultz of C.W.A. being present, and was recorded in the transcript of the proceedings:

A. That an election will be conducted as expeditiously as possible through the Public Employment Relations Commission to determine whether eligible employees of the Department of Public Works of the City of Hackensack desire to be represented by Local 1970 of the American Federation of State, County and Municipal Employees, A.F. of L.-C.I.O. or no union. There is a possibility that there may be one or two intervening employee organizations, namely, Communication Workers of America and Bergen Council No. 5 of the Civil Service Association, who have been given an opportunity to prove an interest through signed authorization cards or some other acceptable proof of intent, said proof to be furnished to the Hearing Officer by four p.m., May 7th, 1969, at the offices of the Hearing Officer at 7 Church Street, Paterson, New Jersey. The proof to be furnished by C.W.A. shall consist of, approximately, ten per cent of signed authorization cards or other evidence, said cards to be dated March 18th, 1969 or prior thereto; the authorization cards or other evidence to be submitted by Bergen Council No. 5 to consist of authorization cards or other evidence to be dated March 11th, 1969 or any dates prior thereto. In the event C.W.A. does not furnish such proof, it will be an indication to the Hearing Officer that C.W.A. has abandoned any claim of representation. In the event that Bergen Council No. 5 does not furnish such proof as hereinabove indicated, it will be an indication to the Hearing Officer that Bergen Council No. 5 has no desire to represent the eligible employees in question.

B. The parties have agreed that the following classifications are eligible for the purposes of voting in an election to be conducted as hereinbefore indicated:

- Laborers. Heavy and regular laborers.
- Heavy equipment operators.
- Truck drivers.
- Equipment operator sweeper.
- Municipal dump caretaker.
- Garage attendant.
- Mechanical repairman.
- Body and fender repairman.
- Tree trimmer.
- Building maintenance worker.
- Senior maintenance repairman.
- Tree climber.
- Police and fire signal system repairman.
- Maintenance repairman.
- Maintenance repairman plumber.
- Pumping station operator.
- Park maintenance man.
- Senior park maintenance man.
- Gardener.
- Traffic maintenance man.

C. Part time employees are excluded. They include the following:

- David Blog.
- Anthony Castronovo.
- Alfred Jones.

D. The parties have agreed that a voting machine will be used. The City of Hackensack has agreed to pay the full expense for the renting of the machine and the



American Arbitration Association shall provide the machine, which shall not come from the City of Hackensack or the County of Bergen.

E. The parties have agreed that the voting hours shall be from twelve-thirty p.m. to four p.m. and that the machine shall be located at the city garage, 76 South River Street, Hackensack, New Jersey.

F. The parties have agreed that the Public Employment Relations Commission shall furnish the American Arbitration Association a list of eligible employees for the purposes of voting at the election. On said list shall be those employees listed on the certified list, dated April 18, 1969. The certification covers listed employees as of April 10, 1969.

G. Local 1970 of the A.F.S.C.M.E. has agreed to withdraw the unfair labor practice charges heretofore made against the City of Hackensack. These withdrawals are without prejudice to Local 1970.

H. In the event that either C.W.A. or Bergen Council No. 5 of the Civil Service Association, or both organizations, have proven to the Hearing Officer that they have a legitimate interest in the election, C.W.A. and/or Bergen Council No. 5 of the Civil Service Association shall be bound by the eligibility standards or criteria covered in this stipulation and shall also be bound by any other pertinent matters contained herein dealing with the election itself.

I. The City of Hackensack agrees that it will act in a completely neutral manner as to the conduct of the election and the parties agree that they will not coerce or pressure employees in their free choice election.

In view of the above, the Hearing Officer makes the following Findings of Fact:

(1) The City of Hackensack and Local No. 1970, A.F.S.C.M.E. have consented to an election to be conducted by the Public Employment Relations Commission utilizing the office of the American Arbitration Association for election purposes, in order to determine whether the eligible employees of the Department of Public Works of the City of Hackensack desire to be represented by Local No. 1970, A.F.S.C.M.E., or no union, with the added condition that in the event Bergen Council No. 5, New Jersey Civil Service Association and/or the Communication Workers of America proved to the Hearing Officer that either or both of these organizations have a legitimate interest in the representation election, then either or both of said organizations, as the case may be, would also appear on the ballot.

(2) The Communication Workers of America, AFL-CIO, has demonstrated a legitimate interest sufficient to warrant participation in an election to determine which organization, if any, should represent the eligible employees of the Department of Public Works of the City of Hackensack, New Jersey. However, this Finding would become academic if the Communication Workers of America withdraws from these proceedings by May 16, 1969.

(3) Bergen Council No. 5, New Jersey Civil Service Association has not demonstrated an acceptable showing of interest which would enable this organization to participate in an election to determine which organization, if any, should represent the eligible employees of the Department of Public Works of the City of Hackensack, New Jersey.

The Hearing Officer makes the following Recommendations:

(1) In the event that the Communication Workers of America, AFL-CIO, decides to remain as an interested party in these proceedings, then, and in that event, an election should be conducted by the New Jersey Public Employment Relations Commission to determine whether Local No. 1970, A.F.S.C.M.E., AFL-CIO, or the Communication Workers of America, AFL-CIO, should be the bargaining representative of the eligible employees of the Department of Public Works of the City of Hackensack, New Jersey, or whether said eligible employees do not desire any union at all.

(2) In the event that the Communication Workers of America, AFL-CIO, withdraws as an interested party in these proceedings, an election should be conducted by the Public Employment Relations Commission to determine whether the eligible employees of the Department of Public Works of the City of Hackensack, New Jersey desire to be represented by Local No. 1970, A.F.S.C.M.E., AFL-CIO, or no union.

(3) That Bergen Council No. 5, New Jersey Civil Service Association be considered ineligible to participate as an organ-

ization for the purposes of determining the collective bargaining representative, if any, of the eligible employees of the Department of Public Works of the City of Hackensack, New Jersey.

(4) That paragraphs B, C, D, E, F, G, H, and I of the Stipulation herein above set forth be incorporated in toto as a part of these Recommendations.

NOTICE IS HEREBY GIVEN to all interested parties mentioned above that Exceptions to the Findings of Fact, and to the Recommendations of the Hearing Officer must be filed within ten (10) days with Louis S. Wallerstein, Esq. Executive Director, New Jersey Public Employment Relations Commission, % New Jersey State Department of Labor, Post Office Box V, Trenton, New Jersey 08625. Interested parties may waive the ten (10) days' notice in writing by addressing such waiver in writing to the Public Employment Relations Commission, address above. This could expedite the election.

DATED: May 12, 1969

  
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JOSEPH F. WILDEBUSH  
HEARING OFFICER