

P.E.R.C. NO. 93-103

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF CHERRY HILL,

Petitioner,

-and-

Docket No. SN-93-28

CHERRY HILL FRATERNAL ORDER
OF POLICE, LODGE NO. 28,

Respondent.

SYNOPSIS

On a motion from the Township of Cherry Hill, the Public Employment Relations Commission clarifies its order in P.E.R.C. No. 93-77 to hold that the proposed article entitled Shift Differential/Work Schedule, as written, is not mandatorily negotiable.

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Appearances:

For the Petitioner, DeCotiis & Pinto, attorneys
(Sheldon L. Cohen, of counsel; Judy A. Verrone, on the
brief)

For the Respondent, Loccke & Correia, P.A., attorneys
(Michael J. Rappa, of counsel)

DECISION AND ORDER

The Township of Cherry Hill has moved for clarification of the decision and order issued in Cherry Hill Tp., P.E.R.C. No. 93-77, 19 NJPER 162 (¶24082 1993). In that case, we considered the negotiability of a collective negotiations proposal submitted by the Cherry Hill Fraternal Order of Police, Lodge No. 28. That proposal, entitled Shift Differential/Work Schedule, stated:

All employees covered by this agreement shall work steady non-rotating shifts. The "5-2, 6-3" shall continue as the work day sequence.

A. No Employee covered by this Agreement shall be required to rotate.

B. Each Employee shall work a steady designated shift which shall either be day shift (7 a.m. - 3 p.m.), afternoon shift (3 p.m. - 11 p.m.) or night shift (11 p.m. - 7 a.m.).

C. Employees shall have the right to request on a seniority basis by rank for their individual choice of steady shift position.

D. The Chief of Police shall have the right to deny an Employee the selected steady shift.

E. Once an Employee has bid for and has been designated a steady shift then said Employee shall thereafter continue in said steady shift position unless said Employee elects to be placed in a different shift which exchange shall require voluntary mutual exchange with an Employee of equal rank from that other shift. All changes subject to the approval of the Chief of Police.

F. All steady shift assignments shall be subject to a review of the bidding procedure, as is defined above, on an annual basis which shall occur during the first week of December each year with the new annual steady shift designations to be effective on the next January 1st. All changes subject to the approval of the Chief of Police. This paragraph shall become effective December 1990.

G. The power of the Chief of Police to assign, transfer and reassign personnel pursuant to law is recognized.

In our opinion, we held that the proposed article, as written, was not mandatorily negotiable. In our order, however, we declared that paragraphs A, B, and E of the proposal were not mandatorily negotiable. The Township wishes us to clarify our order to declare that the entire proposal is not mandatorily negotiable. The FOP has not filed a response.

We will clarify our order to track our holding. However, we will not determine the negotiability of each paragraph of the

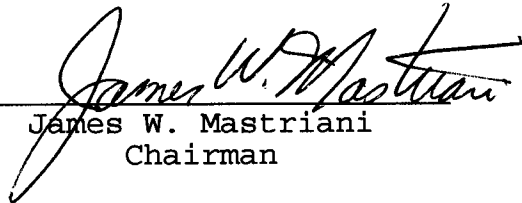
proposed article -- the parties addressed the negotiability of the article as a whole and not every one of its constituent paragraphs. It suffices to declare that the proposal, as written, is not mandatorily negotiable.

ORDER

The order in P.E.R.C. No. 93-77 is clarified as follows:

The proposed article entitled Shift Differential/Work Schedule, as written, is not mandatorily negotiable.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Bertolino, Goetting, Grandrimo, Regan, Smith and Wenzler voted in favor of this decision. None opposed.

DATED: May 20, 1993
Trenton, New Jersey
ISSUED: May 21, 1993