

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWN OF NUTLEY

Public Employer

and

LOCAL 97, INTERNATIONAL BROTHERHOOD  
OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN  
and HELPERS 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 Town of Nutley, a hearing was held on June 23, 1969, before ad hoc Hearing Officer Jonas Silver at which all parties were given an opportunity to present evidence and argue orally. Thereafter, on July 25, 1969, the Hearing Officer issued his Findings and Recommendations. No Exceptions have been filed to the Hearing Officer's Findings and Recommendations. The Commission has considered the record and the Hearing Officer's Findings and Recommendations and finds:

1. The Town of Nutley is a public employer within the meaning of the Act and is subject to the provisions of the Act.
2. Local 97, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America is an employee representative within the meaning of the Act.
3. The public employer having refused to recognize the employee representative as the exclusive representative of certain employees a question concerning the representatives of public employees

exists and the matter is appropriately before the Commission for determination.

4. In the absence of Exceptions to the Findings and Recommendations of the Hearing Officer, attached hereto and made a part hereof, the Commission adopts the Findings and Recommendations of the Hearing Officer pro forma.
5. The Commission finds, as consented to by the parties and recommended by the Hearing Officer, the appropriate units are:
  - (a) All employees of the Department of Public Works of the Town of Nutley including temporary employees but excluding summer employees, clerical employees, managerial executives, professional employees, craft employees, policemen and supervisors as defined in the Act.\*
  - (b) All employees of the Department of Parks and Public Property of the Town of Nutley including temporary employees but excluding summer employees, clerical employees, managerial executives, professional employees, craft employees, policemen and supervisors as defined in the Act.\*
6. The Commission directs that secret-ballot elections shall be conducted among the employees in the units found appropriate. The elections shall be conducted as soon as possible but no later than 30 days from the date set forth below.

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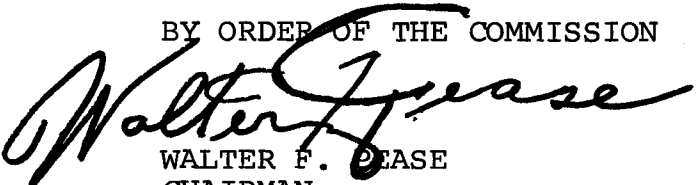
\* The unit is modified to exclude policemen and managerial executives in conformity with the statutory requirements.

Those eligible to vote are employees set forth in Section 5 (a) and (b) 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(s).

Those eligible to vote in each of the units shall vote on whether or not they desire to be represented for the purpose of collective negotiations by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 97.

The majority representatives shall be determined by a majority of the valid ballots cast in each unit.

BY ORDER OF THE COMMISSION

  
WALTER F. DEASE  
CHAIRMAN

DATED: August 20, 1969  
Trenton, New Jersey

STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWN OF NUTLEY

-and-

TEAMSTERS LOCAL 97 OF N.J., I.B.T.

Docket No. R-51

APPEARANCES:

For The Town of Nutley

Carpenter, Bennett & Morrissey, Esqs.

By James J. Crowley, Jr., Esq.

For Teamsters, Local 97

Howard A. Goldberger, Esq.

FINDINGS AND RECOMMENDATIONS  
OF HEARING OFFICER

Upon a petition duly filed under the New Jersey Employer-Employee Relations Act, hearing in this proceeding was held at Newark, New Jersey, on June 23, 1969, before the undersigned ad hoc Hearing Officer. At the hearing the parties were given full opportunity to present evidence and argument, and to examine and cross examine witnesses.

Upon the entire record in this proceeding, the Hearing Officer finds:

1. The Town of Nutley\* is a public employer within the meaning of Section 3 (c) of the Act.

\*As amended at the hearing from Township to Town.

2. Teamsters Local 97 of N.J., I.B.T. is an employee representative within the meaning of Section 3(e) of the Act.

3. Inasmuch as the public employer has declined to recognize the employee representative as the exclusive representative of the employees involved herein, a question concerning the representation of public employees exists.

4. The appropriate unit: As originally petitioned for, Teamsters sought a unit of all non-supervisory employees of the Department of Public Works and Department of Parks and Public Properties of the Town of Nutley, excluding all other employees. At the hearing, the unit request was amended as involving two units: (1) a unit consisting of all non-supervisory employees of the Department of Public Works, excluding all other employees; and (2) a unit of all non-supervisory employees of the Department of Parks and Public Property,\*\* excluding all other employees. As amended the unit request was stipulated to by the Town of Nutley as being both desirable and appropriate in that it corresponds to the requirements of law and the dictates of sound administrative practice including the formulation and application of labor policy. Town of Nutley and Teamsters therefore agreed to a consent election.

The record contains what is tantamount to a stipulation of fact between the parties that under the commission form of government pursuant to the Walsh Act, the Town of Nutley is under a commission which assigns funds, duties and responsibilities to five departments. Thereafter the commissioner of

\*\*As amended at the hearing from Properties to Property.

each of these departments assumes administrative and executive duties to operate his particular department including the two departments involved herein. The individual commissioner acquires by devolution of authority from the commissioners as a body, a substantial part of the overall commission's functions including separate departmental hiring, firing, disciplining, determination of wages, and other terms and conditions of employment. It appears that there is no interchange between employees going from one department to another department and that the job classifications are substantially dissimilar. For example, in the Department of Public Works there are such classifications as equipment operators, maintenance men, meter collectors, and repairmen whereas in the Department of Parks and Public Property one finds laborers, building service workers, tree climbers, and garage attendants.

In view of the separate administrative and executive authority possessed by each of the department commissioners involved herein which authority extends to substantial departmental autonomy with respect to formulating and administering all significant areas of labor policy, the employees sought in each of the two departments possess a separate and distinct community of interest with regard to terms and conditions of employment. Accordingly, the Hearing Officer shall recommend, in agreement with the parties, that the two departments each constitute a separate unit for the purpose of collective negotiations.

5. Unit exclusions: Town of Nutley and Teamsters agree to exclude from each departmental unit, clerical and professional employees. They also agree to exclude summer employees and to include temporary employees.

Summer employees are college students who work for a 14 week period only. Temporary employees are probationary who have not as yet acquired civil service status but who have reasonable expectation of continued employment.

With regard to craft employees, required in Section 8 (d) to be excluded from the unit unless a majority of such employees vote for inclusion, it appears from the job classifications in both departments that there are not "craft" employees within either requested unit as the term "craft" is traditionally understood.

The Hearing Officer shall recommend the exclusion of clerical, professional, and summer employees and the inclusion of temporary employees. The undersigned shall also recommend the exclusion of craft employees.

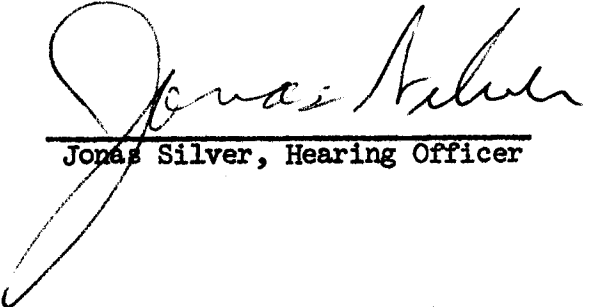
#### RECOMMENDATION

The following units are recommended as appropriate for the purposes of collective negotiations within the meaning of Section 8 (d) and Section 7 of the Act:

(1) All employees of the Department of Public Works of the Town of Nutley including temporary employees but excluding professional employees, clerical employees, craft employees, summer employees and all supervisors;

(2) All employees of the Department of Parks and Public Property of the Town of Nutley including temporary employees but excluding professional employees, clerical employees, craft employees, summer employees and all supervisors.

It is further recommended that the Commission direct that a secret-ballot election be conducted among the employees in the units found to be appropriate.



Jonas Silver, Hearing Officer

DATED: July 25, 1969  
North Merrick, N.Y.