

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF PATERSON,

Petitioner,

-and-

PATERSON P.B.A. LOCAL 1,
SUPERIOR OFFICERS ASSOCIATION,

Docket No. SN-2004-068

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines the negotiability of proposals made by Paterson P.B.A. Local 1, Superior Officers Association for inclusion in a successor collective negotiations agreement with the City of Paterson. The Commission finds mandatorily negotiable sections of an article on union leave and office space and telephone use for union business. The Commission also finds mandatorily negotiable and not in conflict with Attorney General Guidelines sections of an article on departmental investigations of employee misconduct, including: providing employees under investigation with the names of complainants and all witnesses, participation in line-ups, release of confidential information that might be pertinent to an officer's defense, and an officer's right to request union representation at an investigatory interview. The Commission also finds mandatorily negotiable a maternity leave clause and an article on wages and benefits for assignments to certain divisions.

The Commission finds not mandatorily negotiable a portion of an article to the extent it requires that the Union president be placed in a non-uniformed division; a portion of an article requiring that no employee shall be required to submit to a blood test, breath analyzer, or any other similar examination or procedure; an article entitled Swap Rule, as worded, because it does not expressly require prior approval; a portion of a clause as worded on providing sick leave notes during an employee's absence, and a clause providing that any hospitalized officer shall have a uniformed police officer assigned until a private room is provided.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

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Appearances:

For the Petitioner, Dorf & Dorf, P.C., attorneys
(Christopher J. Vaz, on the brief)

For the Respondent, Mark C. Rushfield, attorney, on the
brief

DECISION

On May 6, 2004, the City of Paterson petitioned for a scope of negotiations determination. The City seeks a determination that several articles proposed by Paterson Police P.B.A. Local 1, Superior Officers Association (SOA), for inclusion in a successor collective negotiations agreement are not mandatorily negotiable.

The parties have filed briefs and exhibits. These facts appear.

The SOA represents all sworn supervisory officers. The parties' most recent contract expired on July 31, 2003. It contains several provisions that the SOA seeks to have retained in a successor contract and that the City maintains are not

mandatorily negotiable. The SOA has also proposed new articles that the City maintains are not mandatorily negotiable. The SOA has petitioned for interest arbitration.

We have decided a companion case today involving the City and the majority representative of the non-superior police officers. City of Paterson, P.E.R.C. No. 2005-32, 30 NJPER ___ (¶ ___ 2004). The sections in dispute in this case are the same in all material respects as the sections in dispute in the companion case.^{1/} The parties' arguments are also the same so we incorporate the same analysis and reach the same result for each disputed article. We therefore issue the following order.

ORDER

The following provisions and proposals are mandatorily negotiable:

Sections 2.6 (except to the extent it mandates the assignment of the SOA president to a non-uniformed division), 2.7, 2.8, and 2.10;

Sections 5.3.6, 5.7, 5.3.9.3, and 5.3.9.4, as limited to departmental investigations of suspected employee misconduct;

Section 18.1; and

Section 29.6.2.

^{1/} However, there is no counterpart in this case to section 2.9 in the other case. That section required the assignment of police officers to survey business establishments and distribute window security shield decals.

The following provisions and proposals are not mandatorily negotiable:

Section 2.6 to the extent it mandates the assignment of the SOA president to a non-uniformed division;

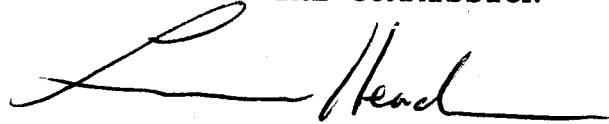
Section 5.11.1;

Section 7.1.4;

Section 17.2; and

Section 22.2.

BY ORDER OF THE COMMISSION

A handwritten signature in black ink, appearing to read "L Henderson", is written over a horizontal line.

Lawrence Henderson
Chairman

Chairman Henderson, Commissioners Buchanan, DiNardo, Fuller, Katz and Watkins voted in favor of this decision. Commissioner Mastriani was not present. None opposed.

DATED: November 23, 2004
Trenton, New Jersey
ISSUED: November 24, 2004