

STATE OF RHODE ISLAND
BEFORE THE STATE LABOR RELATIONS BOARD

In the MATTER of	:
	:
City of Pawtucket, R. I.	Employer :
	:
- and -	: CASE NO. EE-1748
	: (UNIT CLARIFICATION)
R. I. Public Employees Council 70,	:
<u>AFSCME, AFL-CIO</u>	Petitioner :

D E C I S I O N

- and

O R D E R

The above matter came on to be heard on the Petitioner's petition for clarification of an existing bargaining unit. The bargaining unit was certified by this Board on September 28, 1967 and read as follows:

All employees of the City of Pawtucket, except those excluded under Chapter 9.4-2 of Title 28 of the General Laws of R. I.

Subsequent to the issuance of the Certification and by agreement of the parties, 8 Fire Alarm Operators were transferred to Certification EE-1514 from Certification EE-1748, and a further Unit Clarification resulted in the inclusion within the Certification EE-1748 of some employees of Neighborhood Environmental Services, said classifications being: Clerk II, Clerk I, Automotive Mechanic II, Equipment Operator I, Equipment Operator II as well as Sewer and Refuse Laborer, but the positions of Labor Foreman II was excluded as being supervisory

On August 8, 1978, Rhode Island Council 94, Petitioner in the instant matter, filed a request for Unit Clarification relative to approximately 95 positions in the municipal sector of the City of Pawtucket. Subsequent to that petition, an informal conference was held on November 15, 1978 at which no agreement could be reached regarding the exclusion or inclusion of numerous personnel in the bargaining unit represented by Certification EE-1748

Pursuant to that informal conference, a series of long and exhaustive investigations were carried out by the staff of this office relative to all of the positions which were in contention between the parties. Subsequent to the summation of all of the investigative

reports, a letter was forwarded to the City Solicitor for the Employer, setting forth a compilation of the results of the exhaustive investigation and our tentative resolution relative to each of the classifications or positions which were the subject matter of the Unit Clarification. Thereafter, objection was made as to our tentative determination as to the exclusion or inclusion of a number of these positions in the current collective bargaining unit. Therefore, formal hearings were scheduled and held on February 16, 1979, March 28, 1979 and April 26, 1979.

During the interim of time covered by the three formal hearings, agreement was reached between the parties on fifty (50) positions that had previously been in contention.

It was agreed between the parties that the following positions would be excluded from the collective bargaining unit currently representing the municipal employees in the City of Pawtucket:

1. Chief Accountant/Division of Accounting
2. Supervisor of Collections/Division of Collections and Disbursements
3. Supervisor of Computer Operations/Division of Data Processing
4. Secretary/Law Department
5. Clerk of the Court/Department of Public Safety
6. Director/Department of Public Works
7. Assistant to the Director/Department of Public Works
8. Administrative Secretary/Department of Public Works
9. Seasonal Laborer/Division of Cemeteries
10. Supervisor of Parks and Recreation/Division of Parks and Recreation
11. Seasonal Laborer II/Division of Parks and Recreation
12. Laborer/Division of Parks and Recreation
13. Pool Manager/Division of Parks and Recreation
14. Assistant Pool Manager/Division of Parks and Recreation
15. Playground Supervisor/Division of Parks and Recreation
16. Recreation Leader/Division of Parks and Recreation
17. Recreation Trainee/Division of Parks and Recreation
18. Lifeguard/Division of Parks and Recreation
19. Locker Room Aide/Division of Parks and Recreation
20. Supervisor of Special Activities/Division of Parks and Recreation
21. Recreation Watchman/Division of Parks and Recreation
22. Recreation Laborer/Division of Parks and Recreation
23. Supervisor/Division of Parks and Recreation
24. Recreation Leader/Division of Parks and Recreation
25. Junior Clerk/Division of Parks and Recreation
26. Recreation Watchman/Division of Parks and Recreation

In addition, the following employees are excluded by agreement:

Laborers (Refuse Collection)/Division of Sewers and Sanitation
Laborers (Sewer Maintenance)/Division of Sewers and Sanitation

Laborer/Division of Streets and Bridges
Laborers (Street Cleaning)/Division of Streets and Bridges
Traffic Supervisor (Traffic Division)/Division of Streets
and Bridges
Chief Accountant/Water Supply Board
Supervisor of Pumping/Water Supply Board
Supervisor of Water Supply/Water Supply Board
Supervisor of Engineering/Water Supply Board
Supervisor of Water Distribution/Water Supply Board
Laborer (Seasonal)/Water Supply Board
Registrar/Board of Canvassers
Planning Director/Planning Commission
Library Director/Library Department

By agreement of the parties, the following positions were agreed to be included within the employees covered by Certification 1748.

1. Employee Relations Aide/Division of Personnel
2. Supervisor of Inventory and Storeroom/Division of Purchasing
3. Municipal Court Stenographer/Department of Public Safety
4. Fire Signal Supervisor/Fire Division
5. Secretary/Department of Public Welfare
6. Police Matron/Police Division
7. Parking Meter Foreman/Division of Streets and Bridges
8. Chemist/Water Treatment Plant

All parties will recognize the impossibility of setting forth specifically, even a concise statement as to the reasons for the exclusion or inclusion of all of the positions listed below. However, in regard to all of the classifications or positions upon which the Board must make a determination, we wish to inform both parties that the members of the Rhode Island State Labor Relations Board have carefully read, analyzed and considered all of the testimony recorded in the transcripts as well as all exhibits placed in evidence by both parties, and based upon this deep and extensive study, the Board has determined that, relative to those positions claimed to be supervisory the Employer has not presented sufficient evidence to prove, by a fair preponderance of the credible evidence, that they should be excluded as having a degree of supervision which would mandate their exclusion as being supervisory in nature, or in the alternative, that those claimed to be confidential have not been proven to be so confidential relative to matters pertaining to labor relations as to prohibit their inclusion or retention in the collective bargaining

Consequently, for the aforementioned reasons, this Board makes the following Findings of Fact.

FINDINGS OF FACT

1. That the City of Pawtucket is a duly constituted Employer with its headquarters in the City Hall, Pawtucket, Rhode Island and qualifies as an Employer.
2. That Rhode Island Council 94, AFSCME, AFL-CIO is a labor organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining and of dealing with employers in grievances or other mutual aid or protection.
3. That on September 28, 1967, this Board certified R. I. Public Employees Council 70, AFSCME, AFL-CIO (now known as Rhode Island Council 94, AFSCME, AFL-CIO) to be the certified and exclusive bargaining representative of all of the employees in the City of Pawtucket except those excluded under Chapter 9.4-2 of Title 28 of the General Laws of R. I.
4. That the Rhode Island State Labor Relations Board hereby ratifies the agreement reached between the parties which excludes the positions set forth herein above.
5. That the Rhode Island State Labor Relations Board hereby ratifies the agreement between the parties including certain positions as set forth herein above.
6. That the secretary in the Office of the Director of the Finance Department is confidential relative to matters pertaining to labor relations and is therefore excluded from membership in any collective bargaining unit.
7. That the position of Inspector of Weights and Measures does not work at least 20 hours per week and is, therefore, excluded from the existing bargaining unit.
8. The position of Labor Foreman II in the Division of Parks and Recreation is supervisory in nature and excluded from membership in any collective bargaining agreement.
9. The position of Supervisor in the Division of Public Buildings is supervisory in nature and, thereby, is excluded from membership in any collective bargaining unit.

The position of Plumbing Supervisor in the Division of Public Building is supervisory in nature and, therefore, is excluded from membership in any collective bargaining unit

The position of Incinerator Foreman in the Division of Sewers and Sanitation is supervisory in nature and excluded from membership in any collective bargaining unit

The two (2) positions of Labor Foreman II in the Division of Sewers and Sanitation are supervisory in nature and, therefore, are excluded from membership in any collective bargaining unit

The position of Labor Foreman III in the Division of Streets and Bridges is supervisory and is, thereby, excluded from membership in any collective bargaining unit.

14. The position of Labor Foreman II in the Division of Streets and Bridges (Street Cleaning Section) is supervisory in nature and excluded from membership in any collective bargaining unit.

15. The position of Water Meter Supervisor is supervisory in nature and is excluded from membership in any collective bargaining unit

16. The position of Water Meter Project Leader is supervisory in nature and, therefore, excluded from membership in any collective bargaining unit.

17. The position of Library Director in the Library Department is supervisory in nature and, therefore, is excluded from membership in any collective bargaining unit.

18. That the position of Secretary to the Office of the City Engineer is not confidential in matters relative to labor relations and, therefore, the position is within the existing collective bargaining unit.

19. The position of Secretary in the Health Department is not confidential to matters relating to labor relations and said position is within the existing collective bargaining unit

20. The position of Secretary, now known as Administrative Assistant in the Water Supply Board, is not confidential to labor

relations matters to such a degree that would warrant exclusion and this position, therefore, is within the existing collective bargaining unit.

2. The position of Secretary to the Planning Commission is not confidential in regard to matters involving labor relations and, therefore, is within the existing collective bargaining unit.

The position of Secretary in the Department of Records is not confidential to matters relating to labor relations and, therefore, is within the existing collective bargaining unit.

The position of Secretary to the Library Director is not confidential in matters relating to labor relations and, therefore, is within the existing collective bargaining unit.

The employer has failed to prove by a preponderance of credible evidence that any of the positions or classifications listed below possess the degree of supervisory authority which would warrant their exclusion as being supervisory and, therefore, the positions or classifications set forth below are hereby determined to be within the Certification No. 1743 and entitled to be represented by the existing collective bargaining unit

1. Engineering Aide III in the Engineering Department
2. Building Inspector in the Engineering Department
3. Electrical Inspector in the Engineering Department
4. Plumbing Inspector in the Engineering Department
5. Housing Inspector in the Engineering Department
6. Accountant in the Finance Department
7. E.E.O. Counselor in the Division of Personnel
8. School Hygienist in the Health Department
9. Rodent Control Officer in the Health Department
10. Dog Officer in the Police Division
11. Supervisor of Public Works Office in the Department of Public Works
12. Program Manager in the Division of Parks and Recreation
13. Skating Rink Manager in the Division of Parks and Recreation
Assistant Skating Rink Manager in the Division of Parks and Recreation
15. Purchasing Aide in the Department of Purchasing
16. License and Records Supervisor in the Department of Records
17. Probate Supervisor in the Department of Records
18. Deputy Registrar for the Board of Canvassers
19. Librarian II in the Library Department
20. Librarian I in the Library Department

WHEREFORE, the Board makes the following Conclusion of Law:

CONCLUSIONS OF LAW

1. That the classes of positions agreed by the Petitioner and the Employer to be excluded from the collective bargaining unit be and are hereby excluded from organizing and bargaining collectively.
2. That the classes of positions agreed by the Petitioner and the Employer to be included in the collective bargaining unit shall continue to be represented by the existing collective bargaining unit.
3. That the position set forth in Paragraph No. 6 of the Findings of Fact is confidential relative to matters involving labor relations and is hereby excluded from organizing and bargaining collectively.
4. That the position of Inspector of Weights and Measures is hereby excluded as his position does not work the mandated twenty (20) hours or more per week.
5. That the classes of positions set forth in the Findings of Fact in Paragraph No. 9 through Paragraph No. 17 are supervisory in nature and hereby are excluded from organizing or bargaining collectively.
6. That the classes of positions enumerated in Paragraph No. 18 of the Findings of Fact through Paragraph No. 23 of the Findings of Fact are not confidential to matters relating to labor relations and hereby are and shall continue to be represented by the existing collective bargaining unit.
7. That all of the classes of positions listed under Paragraph No. 24 of the Findings of Fact as herein set forth above, are hereby included in the existing collective bargaining unit.

ORDER

That the classes of positions agreed by both the Petitioner and the Employer to be excluded from the collective bargaining unit are hereby excluded.

The classes of positions agreed by both the Petitioner and Employer to be included within the existing collective bargaining unit is hereby ratified and are represented by the existing collective bargaining unit.

That the position enumerated in Paragraph No. 6 of the Findings of Fact is hereby excluded from organizing and bargaining collectively.

That the various positions or classifications as set forth in Paragraph No. 8 through Paragraph No. 17 of the Findings of Fact are supervisory in nature and, thereby, are excluded from organizing or bargaining collectively

That the classes of positions or classifications enumerated in Paragraph No. 18 through Paragraph No. 23 shall and hereby are represented by the existing collective bargaining unit.

That all of the classes of positions or classifications listed under Paragraph No. 24 of the Findings of Fact are hereby included in the existing collective bargaining unit.

RHODE ISLAND STATE LABOR RELATIONS BOARD

S/ SAMUEL J. AZEINARO
CHAIRMAN

S/ RAYMOND PETRARCA
MEMBER

S/ JAMES H. RIGNEY
MEMBER

S/ FRANK MONTANARO
MEMBER

S/ GLENN EDGECOMB
MEMBER

Entered as Order of
the Rhode Island State
Labor Relations Board

DATED: June 8, 1979

BY: S/ JOHN H. WINTER
ADMINISTRATOR