

STATE OF CONNECTICUT
LABOR DEPARTMENT

CONNECTICUT STATE BOARD OF LABOR RELATIONS

IN THE MATTERS OF
TOWN OF FAIRFIELD

DECISION NO. 4065

JULY 27, 2005

-AND-

CONNECTICUT ORGANIZATION FOR
PUBLIC SAFETY EMPLOYEES

: Case No. ME-25, 114

-AND-

TOWN OF WOODBRIDGE

-AND-

CONNECTICUT ORGANIZATION FOR
PUBLIC SAFETY EMPLOYEES

: Case No. ME-25, 115

-AND-

TOWN OF BRANFORD

-AND-

CONNECTICUT ORGANIZATION FOR
PUBLIC SAFETY EMPLOYEES

: Case No. ME-25, 116

-AND-

TOWN OF STONINGTON

-AND-

CONNECTICUT ORGANIZATION FOR
PUBLIC SAFETY EMPLOYEES

: Case No. ME-25, 117

-AND-

TOWN OF NORTH BRANFORD

-AND-

CONNECTICUT ORGANIZATION FOR
PUBLIC SAFETY EMPLOYEES : Case No. ME-25, 122

-AND-

TOWN OF CLINTON

-AND-

CONNECTICUT ORGANIZATION FOR
PUBLIC SAFETY EMPLOYEES : Case No. ME-25,123

A P P E A R A N C E S:

Kenneth A. Flatto
For the Town of Fairfield

Attorney Kevin M. Deneen
For COPS

David A. Ryan
For the Town of Woodbridge

Attorney J. Anthony Doran
For CILU

Attorney William Ryan
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Attorney Michael J. Brady
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Attorney Harry E. Calmar
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Ronald E. Suraci
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Karl Kilduff
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Attorney Gabe Jiran
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ORDER TO OPEN AND COUNT BALLOTS

On January 10, 2005 the Connecticut Organization for Public Safety Employees (COPS) filed a petition with the Connecticut State Board of Labor Relations (the Labor Board) seeking to represent certain employees of the Town of Fairfield (Fairfield) (Case No. ME-25,114). At the time, the employees were represented in collective bargaining by the International Brotherhood of Police Officers (IBPO). On January 31, 2005 COPS,

IBPO and Fairfield entered into an Agreement for Consent Election which election was conducted by the Labor Board on March 30, 2005. In the meantime, in other pending petitions before the Labor Board involving different unions, including Council 4, AFSCME, AFL-CIO (Council 4), a question was raised concerning COPS' status as an employee organization pursuant to the Municipal Employees Relations Act (MERA or the Act). IBPO was one of the parties to those other proceedings. Due to the questions raised in the other petitions, the ballots in Case No. ME-25,114 were impounded and have remained sealed and in the possession of the Agent of the Labor Board since the election.

On January 10, 2005 COPS filed a petition seeking to represent certain employees of the Town of Woodbridge (Woodbridge)(Case No. ME-25, 115). At the time, the employees were represented by the IBPO. On January 20, 2005 COPS, IBPO and Woodbridge entered into an Agreement for Consent Election which election was conducted by the Labor Board on February 17, 2005. Due to the other matters described above, the ballots in this case were also impounded and have remained sealed and in the possession of the Agent since the election.

On January 10, 2005 COPS filed a petition seeking to represent certain employees of the Town of Branford (Branford)(Case No. ME-25,116). At the time the employees were represented by IBPO. On January 26, 2005 COPS, IBPO and Branford entered into an Agreement for Consent Election which election was conducted on February 18, 2005. Again, due to the other matters described above, the ballots were impounded and have remained sealed and in the possession of the Agent since the election.

On January 10, 2005 COPS filed a petition seeking to represent certain employees of the Town of Stonington (Stonington)(Case No. ME-25,117). At the time the employees were represented by IBPO. On February 1, 2005 COPS, IBPO and Stonington entered into an Agreement for Consent Election which election was held on February 24, 2005. Again due to the other petitions, the ballots were impounded and have remained sealed and in the possession of the Agent since the election.

On January 10, 2005 COPS filed a petition seeking to represent certain employees of the Town of North Branford (North Branford)(Case No. ME-25,122). At the time the employees were represented by the IBPO. On February 3, 2005 COPS, IBPO and North Branford signed an Agreement for Consent Election which election was held on February 22, 2005. Again the ballots were impounded and have been sealed and in the possession of the Agent since the election.

On January 10, 2005 COPS filed a petition seeking to represent certain employees of the Town of Clinton (Clinton)(Case No. ME-25,123). At the time the employees were represented by the Connecticut Independent Labor Union (CILU). On January 19, 2005 COPS, CILU and Clinton entered into an Agreement for Consent Election which election was held on February 18, 2005. Again the ballots were impounded and have been sealed and in the possession of the Agent since the election.

In the cases before the Labor Board referred to above in which the status of COPS was raised as an issue, the Labor Board conducted 4 days of hearing between March 2005 and June 2005. During the hearings, all parties, including IBPO, were allowed to present evidence, examine and cross-examine witnesses, request subpoenas and make argument. Also during that time, COPS filed in Superior Court, a Motion for a Writ of Mandamus seeking to force the Labor Board to open and count the ballots in the instant cases. IBPO and Council 4 have filed Motions to Intervene in that action which is still pending. On July 11, 2005 COPS withdrew all pending petitions before the Labor Board in which its status as an employee organization was raised as an issue. On July 19, 2005 COPS again requested the Labor Board to open and count the ballots in the instant cases and to certify the results. COPS asserts that there no longer exists any valid impediment to proceeding with these elections inasmuch as there are no pending objections and Consent Election agreements exist in each case. Council 4 has now moved to intervene in these proceedings. IBPO has filed an objection to COPS' request to open the ballots and seeks to now withdraw its consent to these elections.

First, we deny Council 4's Motion to Intervene. We find no valid reason to allow Council 4 to intervene in these proceedings. We acknowledge that Council 4 has misgivings about COPS. However, Council 4 is not a party in these matters, has no direct interest in the outcome and is not a necessary or helpful party to this Board's decision regarding the pending petitions. All petitions directly concerning Council 4 have been withdrawn. As such, Council 4's legitimate interest in any proceedings concerning COPS has ended and its Motion to Intervene in these proceedings is denied.

We will also not allow IBPO's attempt to withdraw its consent to these elections to halt the election proceedings at this time. The Board's statutes and regulations clearly provide for a period of time during which objections to elections may be filed and considered by this Board. IBPO not only consented to these elections in January, 2005 but never acted to withdraw its consent while the other contested petitions were pending. There is no provision in our statutes or regulations for withdrawal of consent. While we might consider such a request given proper circumstances, we find that it does not serve the purposes of the Act for us to allow IBPO to register its late objection to these matters. While perhaps IBPO did not expect COPS to withdraw its other petitions, that is not a consideration for this Board. IBPO had full opportunity to participate in the other proceedings and to act consistently with regard to these matters. It chose not to do so and should not now be allowed to further delay the proceedings in cases in which it was a full participant and in which the employees have waited months to see the results of their voting.

Finally, IBPO's appearance in the mandamus action pending in Superior Court does not change our course of action in these cases. Even if COPS were to maintain its action in Superior Court, any court order would not be contrary to this decision. Either the Court will grant the motion in which case the ballots would be opened and counted or it will deny the motion, leaving the matter to the discretion of this Board. Either way, the Court proceedings do not affect our decision here.

ORDER

By virtue of and pursuant to the powers vested in the Connecticut State Board of Labor Relations by the Municipal Employees Relations Act, it is hereby

ORDERED that the ballots in the above-captioned matters be opened and counted for certification by the Labor Board.

CONNECTICUT STATE BOARD OF LABOR RELATIONS

John W. Moore, Jr.
John W. Moore, Jr.
Chairman

Patricia V. Low
Patricia V. Low
Board Member

Wendella A. Battey
Wendella A. Battey
Board Member

CERTIFICATION

I hereby certify that a copy of the foregoing was mailed postage prepaid this 27th day of July, 2005 to the following:

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Karl Kilduff, Town Manager Town of North Branford Town Hall, 1599 Foxon Road North Branford, CT 06471	RRR
Attorney Gabe Jiran Shipman & Goodwin One Constitution Plaza Hartford, CT 06103-1919	RRR

CERTIFICATION

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CONNECTICUT STATE BOARD OF LABOR RELATIONS