BEFORE THE BOARD OF PERSONNEL APPEALS

* * * * * * * * * * * * * * * * * * * *

IN THE MATTER OF THE UNIT MODIFICATION OF THE STATE OF MONTANA, CITY OF ANACONDA POLICE DEPARTMENT EMPLOYEES: UM 8-76 AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, AFL-CIO, Petitioner, CITY OF ANACONDA, Counter-Petitioner.	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDED ORDER.

* * * * * * * * * * * * * * * * * * * *

On December 8, 1976, the American Federation of State, County, and Municipal Employees, AFL-CIO filed a petition for unit modification with this Board describing the unit to be modified as: "An existing unit consisting of approximately 10 police officers"desires to be modified to include the positions of Dispatcher and Dispatcher-Records Clerk of which there are four employees. The City of Anaconda filed a counter-petition on December 20, 1976, taking exception to the proposed unit modification.

A hearing was held on January 14, 1977. After a close review of the record of the hearing and pertinent sections of the Revised Codes of Montana and City of Anaconda Ordinances, the following are my findings of fact:

FINDINGS OF FACT

1. The uncontravened testimony of Dan Jamie, Assistant Police Chief establishes that the petitioned for positions:

a. Are not "supervising" per section 59-1602-(3) of the Collective Bargaining for Public Employees Act".

b. And not "management" officials per section 59-1602-(4) of the Collective Bargaining for Public Employees Act.

2. Considering those factors as outlined in section 59-1606-(2), to be employed in determining the inclusion of positions within a collective bargaining unit, I find that the petitioned for positions should appropriately be included in the existing collective bargaining unit.

3. The City of Anaconda contends that to place the petitioned for positions in the existing collective bargaining unit would increase the size of their police department.

THURBER'S HELENA

4. The City of Anaconda contends that increasing the size of their police department would directly contravene section 11-1807, R.C.M., 1947 and Chapter 21 Article I, section 21-1 of the City Ordinance of the City of Anaconda.

DISCUSSION

It is obvious from the findings of fact that based on all criteria as established by the Public Employees Collective Bargaining for Public Employees Act as the proposed unit modification is appropriate.

The City of Anaconda takes exception with the proposed modification because they contend it would increase the size of their police department and contravene the cited statutes. This argument flys in the face of the fact that the proposed modification will be for collective bargaining purposes only and will in no way effect the size of the police force as set by the City of Anaconda.

CONCLUSIONS OF LAW

There is no contravention of Section 11-1807, R.C.M., 1947 by modifying the existing collective bargaining unit.

There is no contravention of Chapter 21, Article I, section 21-1 of the City Ordinances of the City of Anaconda by modifying the existing collective bargaining unit.

In applying my Findings of Fact to 59-1606-(2), the section delineating the factors to be considered in determining the appropriateness of a unit modification, I conclude that the unit modification proposed by the petitioner is appropriate.

ORDER

It Is Therefore Ordered:

That a Unit Modification Election be held.

That those employees eligible to vote will be all employees employed by the City of Anaconda as Dispatcher and Dispatcher - Clerks as of December 8, 1976.

Dated this 28th day of January, 1977.

BOARD OF PERSONNEL APPEALS

BY Edward Kennedy
Edward Kennedy
Hearing Examiner

THURBER'S
HELENA

CERTIFICATE OF MAILING

* * * * * * * * * * *

I, Vonda Brewster, hereby certify and state that I did on the 28th day of January, 1977, mail a copy of the above Findings of Fact, Conclusions of Law, and Recommended Order to the following:

Don Judge
AFSCME
600 North Cooke
Helena, Montana 59601

John N. Radonich
Attorney at Law
108 East Park Avenue
Anaconda, Montana 59711

City of Anaconda
City Hall
Anaconda, Montana 59711

Vonda Brewster

Vonda Brewster

THURBER'S
HELENA

State of Montana

Board of Personnel Appeals

1417 HELENA AVENUE, HELENA, MONTANA 59601
PHONE (406) 449-2890

MEMBERS:
BRENT CROMLEY, CHAIRMAN
XXXXXXXXXXXXXXXX
JOSEPH B. REBER
GEORGE B. HELIKER
JOHN J. QUINN
Charlotte M. Posey

ROBERT R. JENSEN, DIVISION ADMINISTRATOR

March 18, 1977

Mayor Paul Beausoleil
City of Anaconda
City Hall
Anaconda, MT 59711

Dear Mayor Beausoleil:

The purpose of this letter is to certify the results of the election conducted by the Board of Personnel Appeals on March 11, 1977, to determine the representative for collective bargaining purposes for certain employees of the City of Anaconda Police Department.

There were four (4) employees eligible to vote of which three (3) valid ballots were cast. Three (3) ballots were cast in favor of Representation by the American Federation of State, County, and Municipal Employees, AFL-CIO and zero (0) ballots were cast in favor of No Representation.

There being a clear majority, the Board hereby certifies the American Federation of State, County, and Municipal Employees, AFL-CIO as the exclusive representative for collective bargaining purposes for certain employees of the City of Anaconda Police Department, Anaconda, Montana.

Thank you for your cooperation in this matter.

Sincerely,

Robert R. Jensen

Robert R. Jensen
Administrator

RRJ:vb
cc: Don Judge