STATE OF MAINE

MAINE LABOR RELATIONS BOARD
Case No. 05-02
Issued: February 16, 2005

GRANITE CITY EMPLOYEES ASSOCIATION,	)	
Complainant,	)	
v.	)	DECISION AND ORDER
CITY OF HALLOWELL,	)	
Respondent.	)	

This is a prohibited practice case, filed pursuant to 26 M.R.S.A. § 968(5)(B) on June 24, 2004, by the Granite City Employees Association ("Association" or "Complainant") alleging that the City of Hallowell ("City" or "Respondent") violated 26 M.R.S.A. § 964(1)(A), (C), (E), and § 965(1)(A) and (C) by offering a conditional employment agreement to a bargaining unit member without notifying the Association or negotiating over the terms of the agreement, by unilaterally changing working conditions and refusing to negotiate those changes, and by unilaterally imposing terms and conditions of employment that alter previously negotiated wages and seniority provisions of the collective bargaining agreement. The City filed a timely response on July 12, 2004, denying that its actions constituted a violation of the Municipal Public Employees Labor Relations Law ("MPELRL"), 26 M.R.S.A. ch. 9-A.

A prehearing conference in the case was held on August 23, 2004, with Alternate Neutral Chair Jared S. des Rosiers, Esq., presiding. On September 9, 2004, Chair des Rosiers issued a Prehearing Conference Memorandum and Order, the contents of which are incorporated herein by reference. In the Prehearing Order, four issues of fact and law were identified in the matter.

In written resolutions signed on September 30 and October 26, 2004, the parties agreed to settle issues one, two, and three as identified in the Prehearing Order. The fourth and final issue still to be determined after hearing by the Maine Labor Relations Board ("Board") was as follows:

> Did the Respondent violate 26 M.R.S.A. § 964(1)(A), (C) and/or (E) and/or § 965(1)(A) and/or (C) by unilaterally imposing terms and conditions of employment that alter previously negotiated wages and seniority provisions for certain police officer members of the bargaining unit?

A hearing on this remaining matter was held on October 26, 2004, Alternate Chair des Rosiers presiding, with Alternate Employer Representative Richard L. Hornbeck, Esq., and Alternate Employee Representative Wayne W. Whitney, Esq. The Complainant was represented by Richard D. Mersereau, Association Representative; and the City was represented by Thomas B. Federle, Esq. The Complainant presented as its sole witness Patrol Officer Ronald Grotton. The City presented no witnesses. The Board accorded the parties a full opportunity to examine and cross-examine the witness and to introduce evidence. The parties submitted written argument to the Board following the hearing, with briefing completed on November 12, 2004. The Board met to deliberate the case on December 17, 2004.

JURISDICTION

The Association is the bargaining agent, within the meaning of 26 M.R.S.A. § 962(2), of the employees holding the following positions in the City of Hallowell: Deputy City Clerk, Code Enforcement Officer, Janitor, Deputy Chief of Police, Patrol Officers, Highway Foreman, Equipment Operators, Truck Drivers and Laborers. The City is the public employer, within the meaning of 26 M.R.S.A. § 962(7). The jurisdiction of the Board to hear this

case and to render a decision and order lies in 26 M.R.S.A. § 968(5). All subsequent statutory references are to the MPELRL, Title 26, M.R.S.A.

STIPULATIONS

The parties stipulated to the following:

1. The MLRB has jurisdiction to hear and render decisions pursuant to 26 M.R.S.A. Sec. 968(5) in this case.
2. The GCEA is a certified bargaining agent and an unincorporated labor organization composed of Hallowell city employees pursuant to 01-UD-04, May 23, 2001.
3. The collective bargaining agreement hereinafter "Agreement 1" signed February 20, 2002, was in effect from July 1, 2001, to June 30, 2004.
4. The collective bargaining agreement hereinafter "Agreement 2" signed January 12, 2004, is in effect from July 1, 2004, to June 30, 2007.
5. On May 20, 2004, [the Association Representative] notified by regular and electronic mail the City Council Chair of the Personnel Committee of its concern that the City was planning to eliminate a unit position in the Police Department and that the Association was notifying the City of its intent to meet and negotiate over the impact of the position elimination, namely, the Deputy Chief of Police.
6. On June 8, 2004, the Personnel Chair notified the Association of her willingness to meet regarding the position elimination and a meeting was scheduled for June 16, 2004, for 10:00 a.m. at City Hall.
7. On June 16, 2004 the Personnel Committee Chair Cynthia Murray-Beliveau, Officer Ron Grotton and Richard Mersereau, Association Representative met at 10:00 a.m. regarding the position elimination and the City Manager’s actions regarding wage assignments and status changes of two (2)

Police Officers.

8. At the June 16, 2004 meeting the Association raised its concern regarding the impact of the position elimination on the other members of the unit because there were many duties that are performed by the Deputy Chief that directly support operations of the department on a day to day basis. The Deputy Chief job description was presented and essential duties were cited with a reminder that they are all unit working conditions. The city representative indicated she would get back to the Association on this matter.

FINDINGS OF FACT

1. The Hallowell City Employees bargaining unit was created as the result of unit determination hearing, No. 01-UD-04 (MLRB May 23, 2001). The unit consists of all employees in the following positions: Deputy City Clerk, Code Enforcement Officer, Janitor, Deputy Chief of Police, Patrol[1] Officers, Highway Foreman, Equipment Operators, Truck Drivers and Laborers. The Association was certified after bargaining agent election conducted on July 16, 2001.
2. The City and the Association have negotiated an initial collective bargaining agreement ("CBA")(effective July 1, 2001, to June 30, 2004) and one successor collective bargaining agreement (effective July 1, 2004, to June 30, 2007). The successor CBA was signed by both parties on January 12, 2004.
3. In April, 2004, the City began finalizing a municipal budget which would, in part, eliminate the Deputy Police Chief position, effective July 1, 2004. At that time, the Hallowell Police Department consisted of a Police Chief, a

[1]The collective bargaining agreements describe the position both as "police officers" and "patrol officers." We will use the term "patrol officers" in this decision.

Deputy Police Chief, and three full-time Patrol Officers.

4. Both the first and the second CBA's provided for separate pay ranges for the Deputy Police Chief and the three patrol officers, described as "Patrol Officer 1," "Patrol Officer 2," and "Patrol Officer 3." In both CBA's, the Deputy Police Chief is the highest paid unit position in the department, the Patrol Officer 1 is the second highest paid unit position, the Patrol Officer 2 is the third highest paid unit position, and the Patrol Officer 3 is the lowest paid unit position.
5. Neither CBA defines the qualifications required to hold the position of Patrol Officer 1, 2 or 3. In practice, the position of Patrol Officer 3 has been filled with an employee who has not yet completed the required course of study at the Maine Criminal Justice Academy. The position of Patrol Officer 2 has been filled with an employee who has completed this required course. The position of Patrol Officer 3 has been filled with an employee who has completed this required course, and who has been employed by the City for some length of time.
6. The municipal budget for July 1, 2004 - June 30, 2005, which eliminated the position of Deputy Police Chief, had its first reading on April 12, 2004, its second reading on May 10, 2004, and its third and final reading on June 7, 2004.
7. By letter dated May 20, 2004, the Association Representative requested a meeting within ten days with the City's chief negotiator to negotiate the impact of the proposed position elimination upon the unit and its members. The Association Representative also sent the City's chief negotiator an e-mail message on the same date requesting impact bargaining.
8. In early June, the Association Representative and the City's chief negotiator exchanged a series of e-mails attempting to

set a mutually agreeable time to meet. They eventually agreed to meet on June 16, 2004.

9. On June 9, 2004, Eric Nason (the employee holding the Deputy Police Chief position) was advised in writing that his position was being eliminated effective July 1, 2004, and that he had the right to "bump into Officer Grotton's budget position 30-35-22 Patrol Officer 1" or, if he chose not to bump into this position, his last date of employment would be June 30, 2004. Mr. Nason was also advised that his "save pay," if he chose to bump into Mr. Grotton's position, would be $34,570 annually. Mr. Nason advised the City in writing that he would exercise his right to bump.
10. On June 11, 2004, Ronald Grotton, the employee holding the Patrol Officer 1 position, was advised in writing that he had the right to "bump into Officer Madore's budget position 30-35-23 Patrol Officer 2," which position was soon to be vacant as Mr. Madore had submitted a resignation to the City effective June 24, 2004. Mr. Grotton was advised that if he chose not to bump into the Patrol Officer 2 position, then his last date of employment would be June 30, 2004. Mr. Grotton was also advised that his "save pay," if he chose to bump into Mr. Madore's position, would be $27,519 annually.
11. Copies of these letters sent to Mr. Nason and to Mr. Grotton were simultaneously sent to the Association Representative.
12. By letter dated June 17, 2004, Mr. Grotton advised the City that he wished to continue employment with the City.
13. By letter dated June 18, 2004, City Manager James Rhodes advised Mr. Grotton that in order to continue employment, Mr. Grotton was required to advise the City that he was bumping into budget position 30-35-23 Patrol Officer 2. Mr. Grotton responded in writing that he understood the requirement, and that he was bumping into that position.

14. The Association Representative, the City's chief negotiator, and Mr. Grotton met on June 16, 2004, to discuss the impact of the elimination of the Deputy Police Chief position. At that point, both Mr. Nason and Mr. Grotton had received letters advising them of the position elimination and their opportunity to "bump" into the Patrol Officer 1 and Patrol Officer 2 positions, respectively. At the meeting, the Association Representative and Mr. Grotton sought to negotiate about two aspects of the elimination of the Deputy Police Chief position. First, they discussed the duties of the Deputy Police Chief, how these duties would be fulfilled after the position was eliminated, and whether this would impact the remaining police officers in the department. Second, they discussed the impact of the letters sent to Mr. Nason and Mr. Grotton, and whether the CBA dictated that Mr. Grotton bump into the Patrol Officer 2 position. The City's chief negotiator advised the Association Representative and Mr. Grotton that she would get back to them about the issues. No agreements were reached as the result of this meeting.
15. On June 24, 2004, the Association filed the present Prohibited Practice Complaint.
16. On June 25, 2004, the City's chief negotiator e-mailed the Association Representative and advised him that the City Manager had received the letter from Mr. Grotton stating that Mr. Grotton intended to use his bumping privileges under the CBA. She further stated that "[w]e do not believe it would be appropriate to re-negotiate the employees contract at this time."
17. Following this June 25 e-mail, the Association and the City did not have further meetings to negotiate the impact of the elimination of the Deputy Police Chief position.
18. The salary of the Patrol Officer 1 was $13.23 per hour,

effective July 1, 2003, and was $13.56 per hour, effective July 1, 2004. The salary of the Patrol Officer 2 was $12.33 per hour, effective July 1, 2003, and was $12.64 per hour, effective July 1, 2004. Because Mr. Grotton was forced to bump into the Patrol Officer 2 position (or be laid off) his salary was effectively frozen at the July 1, 2003 level of $13.23 per hour. If he continues in the Patrol Officer 2 position, he will not be given a salary increase until July 1, 2006, when the salary of the Patrol Officer 2 position is scheduled to increase to $13.60, which is in excess of his current salary.

DECISION

The statutory duty to bargain embodied in § 965(1) requires that the employer and the bargaining agent negotiate in good faith with respect to the mandatory subjects of bargaining--wages, hours, working conditions and contract grievance arbitration. The duty to bargain continues throughout the life of the collective bargaining relationship between the employer and the bargaining agent, provided that the parties have not otherwise agreed in a prior written contract. Council 74, AFSCME v. Ellsworth School Committee, No. 81-41, at 7 (MLRB July 23, 1981). Where, as here, a collective bargaining agreement is in effect between the parties, the obligation to bargain continues in the following circumstances:

> If, as in the instant case, there is a collective bargaining agreement in effect which does not contain a so-called "zipper clause," the obligation to bargain continues with respect to new issues which arise during the course of the administration of the collective bargaining agreement when those new issues are neither contained in the terms of the contract nor negotiated away during bargaining for that contract or a successor agreement.

East Millinocket Teachers Ass'n v. East Millinocket School Committee, No. 79-24, at 4-5 (MLRB Apr. 9, 1979).[2]

Finally, and particularly important to the present matter, the parties are obligated to negotiate about the effects or "impact" of a management decision on the terms and conditions of employment, even when there is no obligation to negotiate about the decision itself. See, e.g., City of Bangor v. AFSCME, Council 74, 449 A.2d 1129 (Me. 1982) (even though the union waived the right to negotiate over discharges and changes in the size of the employee group, the employer was still obligated to bargain about the impact of the discharges); State of Maine (Bureau of Alcoholic Beverages) v. Maine Labor Relations Board, 413 A.2d 510 (Me. 1980) (state was required to negotiate the impact of the opening of liquor stores on holidays upon the employees' wages, hours, and working conditions).

A corollary to the duty to bargain is the well-established prohibition against public employers making unilateral changes in the mandatory subjects of bargaining. See, e.g., State of Maine (Bur. of Alcoh. Bev.) v. MLRB, supra, at 515; NLRB v. Katz, 369 U.S. 736, 743 (1962). "The essence of this prohibition is that once a bargaining agent has begun to represent a unit of employees, the employer may not make unilateral changes in mandatory subjects of bargaining without negotiating the changes with the bargaining agent." Teamsters Local 48 v. Town of Jay, No. 80-02, slip op. at 3 (MLRB Dec. 26, 1979). The rationale for the prohibition is that unilateral changes in mandatory subjects "is a circumvention of the duty to negotiate which frustrates the objectives of the duty much as does a flat refusal to bargain."

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[2]If the parties wish to foreclose the possibility of "mid-term bargaining," the agreement must contain a comprehensive waiver of the duty to bargain, either in a conclusion of negotiations article or zipper clause. The CBA of the parties here contains no such waiver and the City has not argued that mid-term bargaining was foreclosed on this basis.

NLRB v. Katz, 369 U.S. at 743.

The facts of the present matter are fairly simple and, for the most part, uncontested. The City decided through its annual budget process to eliminate one of the bargaining unit positions, the Deputy Police Chief. The Union sought to negotiate about the impact of the decision to eliminate the position, making a written request on May 20, 2004, to engage in impact bargaining. Although the meeting to negotiate did not occur until June 16, 2004, this was apparently with the agreement of the Union, and the Union has not charged a violation of the *per se* requirement to meet within ten days, as provided in § 965(1)(B). Prior to the meeting, the City sent letters first to the Deputy Police Chief and then to the Patrol Officer 1, advising both of these employees that the Deputy Police Chief was being eliminated and advising both that they had the right to "bump" into a lower-paid bargaining unit position or, if they chose not to bump, that their employment would be terminated effective June 30, 2004. At the June 16, 2004, meeting, the Union raised two issues relating to the impact of the position elimination: how the duties of the eliminated position would be distributed and performed, and whether the employee holding the Patrol Officer 1 position was also to be affected by the elimination of the Deputy Police Chief position--by being required to bump to a lower position, receiving lower pay, etc. The City's chief negotiator advised the Association Representative that she would get back to him on these issues following the meeting. Several days later, the chief negotiator advised the Union that the City was unwilling to "re-negotiate the employees contract."

Since the parties have since settled the first impact issue raised during the meeting (the distribution and performance of the Deputy Police Chief's duties), the issue that remains is whether the City was obligated to negotiate about the impact of the position elimination on the employee holding the Patrol

Officer 1 position. The City here argues that it did not commit a unilateral change without negotiation because the CBA provided for the consequences of a reduction in force and the City complied with the CBA.[3] The City further argues that it did not refuse to negotiate about the impact of the position elimination, only that it refused to accept the Union's position as to the meaning and application of the CBA.

The Board has no jurisdiction to consider contract grievances. Yet, in cases such as this, where the employer has allegedly violated the duty to bargain, the Board must interpret the applicable CBA in determining whether there was a refusal to bargain or whether the implemented change was permitted by the agreement. See Paul Coulombe and South Portland Professional Firefighters v. City of South Portland, No. 86-11, at 8-9 (MLRB Dec. 29, 1986); MSEA and State of Maine, No. 82-05, at 6 (MLRB Dec. 22, 1982), rev'd on other grounds, 499 A.2d 1228, 1230 (Me. 1985) ("Our review of the agreements will not be to determine whether the State complied therewith but rather to determine whether or not the parties' agreements control the changes which have been implemented"). The article most relevant to the present matter is the article on seniority which, in the parties' successor CBA, provides as follows:

ARTICLE 24 SENIORITY

> A. Seniority lists shall be maintained by the City. Seniority shall be based upon the length of continuous employment from the date of last hire.
>
> B. In the event it becomes necessary for the City to reduce the workforce, employees will be laid off according to seniority within their respective departments. The layoffs will be in the inverse

[3]The parties appeared to agree that the successor CBA--signed January 12, 2004, and effective July 1, 2004--was the controlling agreement in these events. The key article here pertaining to seniority was identical in the initial and the successor CBA.

order of seniority meaning beginning with the least senior employee and moving towards the most senior in that order. All affected employees shall have not less than two (2) weeks advance notice of a layoff.

Employees so affected shall be recalled from lay-off according to their seniority to any position for which the employee is qualified. Recall rights shall be in effect for a period of twelve (12) months from the date of layoff.

C. Any affected employee(s) by reduction in force or position elimination who remains with the City shall retain their current wage (the wage immediately prior to the event) until such time as the "new" wage assignment is equal to or surpasses the wage of their former classification.

D. Unit members shall accrue seniority when any of the following occur:

1) Layoff due to reduction in force and other dislocations, and;

2) Any authorized paid or unpaid leave.

This article provides that in the event of a reduction in force, employees will be laid off according to seniority within departments. In passing the 2004 police department budget, the City effected a reduction-in-force of the department, but it was not based upon seniority. Rather, the City identified a particular position to eliminate (the Deputy Police Chief position), a position held by a single employee. No evidence was presented by the parties here about the respective seniority of any of the police department employees. The employee holding the Deputy Police Chief position (Mr. Nason) may have been the most senior unit employee in the department, but the City opted to eliminate a position rather than to lay off the least senior employee. While it was the employer's right to eliminate a position, the CBA does not fully address the process to be followed when the City eliminates a position rather than lays off

an employee based upon their seniority.

Without negotiating about the impact of the position elimination, the City began a bumping process - first offering Mr. Nason the option of bumping into the Patrol Officer 1 position or being laid off, then offering Mr. Grotton the option of bumping into the Patrol Officer 2 position or being laid off, and so on.[4] The bumping system that the City created appeared to be based on the relative wages of the positions in the police department (from the highest paid to the lowest paid), not on the seniority of the employees involved. The CBA seniority article does not describe a bumping procedure from position to position at all. The City relies on the language of Article 24, Sec. C as the basis for the bumping system it created. However, this section merely states that any employee affected by position elimination who remains with the City will retain their current wage until such time as the "new" wage assignment is equal to or surpasses their former classification. This section contemplates circumstances in which an employee's position is eliminated but the employee remains employed in a lower-paying position, but the section does not clarify the manner in which the affected employee comes to remain in employment in a lower-paying position. This might occur, for example, if another lower-paying position was simply open and available at the time of the position elimination.

In summary, the Board finds that the Seniority Article does not unambiguously create a bumping system, from position to position, that was to be automatically instituted upon the elimination of a position. The procedure to be followed when a position was eliminated was not "contained in the terms of the

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[4]The letter to Mr. Grotton (Exh. C-16) suggested that the bumping of employees within the department would have continued to occur down through the entire department, except for the fact that the Patrol Officer 2 had elected to resign from his position.

contract," thus the City was obligated to bargain about the impact of the position elimination. Here, the Association particularly complains of the impact on Mr. Grotton who, while his position was not eliminated, was forced to bump into the lower-paying job class of Patrol Officer 2 or be laid off. While he retained his previous Patrol Officer 1 salary from the 2003 level, he did not receive the negotiated increase for this position on July 1, 2004, and he will not receive an additional wage increase until July 1, 2006, when the Patrol Officer 2 salary first surpasses his present salary. Aside from any other arguable impact, the City's decision to eliminate the Deputy Police Chief position, and then to implement a bumping system affecting employees in addition to Mr. Nason, clearly impacted the wages of Mr. Grotton. The final question remaining in this matter is whether the City engaged in good faith bargaining about this impact.

The City argued that its chief negotiator did "confer and negotiate in good faith" about this impact, but simply refused to adopt the Association's position on the meaning of the CBA (Respondent's brief at 4). The standard we apply in evaluating alleged violations of the duty to bargain in good faith is as follows:

> A bad faith bargaining charge requires that we examine the totality of the charged party's conduct and decide whether the party's actions during negotiations indicate "a present intention to find a basis for agreement." NLRB v. Montgomery Ward & Co., 133 F.2d 676, 686 (9th Cir. 1943); see also Caribou School Department v. Caribou Teachers Association, 402 A.2d 1279, 1282-1283 (Me. 1979). Among the factors which we typically look to in making our determination are whether the charged party met and negotiated with the other party at reasonable times, observed the ground-rules, offered counter proposals, made compromises, accepted the other party's positions, put tentative agreements in writing, and participated in the dispute resolution procedures. See, e.g., Fox Island Teachers

> Association v. MSAD #8 Board of Directors, MLRB No. 81-28 (April 22, 1981); Sanford Highway Unit v. Town of Sanford, MLRB No. 79-50 (April 5, 1979). When a party's conduct evinces a sincere desire to reach an agreement, the party has not bargained in bad faith in violation of 26 M.R.S.A. Sec. 964(1)(E) unless its conduct fails to meet the minimum statutory obligations or constitutes an outright refusal to bargain.

Kittery Employees Assoc. v. Strahl, No. 86-23, at 10-11 (Jan. 27, 1987), quoting Waterville Teachers Assoc. v. Waterville Board of Education, No. 82-11, at 4 (Feb. 4, 1982). In this case, the City and the Association met on a mutually-agreed-upon date, a meeting which occurred before the scheduled date of the position elimination (and its impact). The Association witness, who was present at this meeting, testified that no "negotiation" occurred at this meeting. He testified that the City's chief negotiator noted the Association's concerns about the impact of the position elimination, and advised that she would get back to them about their concerns. Her response came several days later in writing when she advised the Association that the City would not "renegotiate the contract." The testimony of the Association witness was not contradicted by the City.

The City did not offer counter proposals or suggest any possible area of compromise here. The City, in fact, engaged in no real negotiation at all. We understand the City's position in this case: that there was "nothing to bargain about" because the matter was covered by the CBA, and the actions of the City were in keeping with the terms of the CBA. As we found above, however, the CBA was ambiguous on the issue of bumping and the impact of position elimination on employees who held positions that were not being eliminated. In the face of this ambiguity, the Association's position (articulated before the Board) was that Mr. Nason should have been offered the Patrol Officer 1 position after his position was eliminated, but that Mr. Grotton should have been allowed to retain his Patrol Officer 1 position

as well. The City was not obligated to adopt the Association's position, but the City was certainly obligated to negotiate in good faith about the impact. Instead, the City presented a "take it or leave it" attitude which was the antithesis of good faith bargaining. As we recently suggested in another matter where the employer made no real effort to bargain, "[b]argaining is more than just stating one's position. It involves listening to the concerns of the other side, and making an effort to resolve differences." MSEA v. York County, No. 04-04, at 29 (MLRB Oct. 8, 2004). The City's actions in this case did not satisfy the employer's duty to bargain in good faith about the impact of the position elimination and, in failing to bargain in good faith, the City violated 26 M.R.S.A. § 964(1)(E).

The Association also alleged that the City's conduct violated 26 M.R.S.A. § 964(1)(A) and § 964(1)(C). We have held that an employer violates § 964(1)(A) if it engages in conduct "which, it may reasonably be said, tends to interfere with the free exercise of employee rights under the Act." Teamsters Local Union No. 48 v. Town of Oakland, No. 78-30, at 3 (MLRB Aug. 24, 1978). A public employer's unlawful changes in the mandatory subjects of bargaining not only violate the statutory duty to bargain, but also inherently tend to interfere with the employees' exercise of the bargaining rights guaranteed by the Act. Teamsters Local Union No. 48 v. Town of Jay, No. 80-08, at 4 (MLRB Jan. 9, 1980). We have found here that the City refused to bargain in good faith; however, the City met with the Association prior to eliminating the Deputy Police Chief position, and based its position on at least a colorable reading of the CBA. In these circumstances, we decline to find that the City's conduct had the effect of restraining employees in the exercise of their statutory rights, in violation of § 964(1)(A). Section 964(1)(C) is "directed at the evil of too much financial or other support of, encouraging the formation of, or actually

participating in the affairs of the union and thereby potentially dominating it." Teamsters Local Union No. 48 v. Town of Fort Fairfield, No. 86-01 (MLRB Jan. 24, 1986). There was no evidence presented here that the employer violated this section of the Act.

In conclusion, the Board finds that the employer violated 26 M.R.S.A. § 964(1)(E) when it refused to bargain about the impact of the elimination of Deputy Police Chief position, particularly as it affected the wages, hours, and/or working conditions of an employee (Mr. Grotton) whose position was not eliminated.

ORDER

On the basis of the foregoing findings of fact and discussion, and by virtue of and pursuant to the powers granted to the Maine Labor Relations Board by 26 M.R.S.A. § 968(5), it is hereby ORDERED:

That the City of Hallowell and its representatives and agents:

1. Cease and desist from refusing to bargain with the Association over the impact of the elimination of the Deputy Police Chief position on the terms and conditions of employment of employees in the Police Department; and

2. Take the following affirmative action designed to effectuate the purposes of the Act by meeting with the Association for the purposes of negotiating the impact of the elimination of the Deputy Police Chief on the terms and conditions of employment of employees in the Police Department within ten days of receipt of this

order. The parties may meet beyond the ten-day period if mutually agreeable.

Dated at Augusta, Maine, this 16th day of February, 2005.

MAINE LABOR RELATIONS BOARD

The parties are advised of their right pursuant to 26 M.R.S.A. § 968(5))(F) (Supp. 2004) to seek a review of this decision and order by the Superior Court. To initiate such a review, an appealing party must file a complaint with the Superior Court within fifteen (15) days of the date of issuance of this decision and order, and otherwise comply with the requirements of Rule 80(C) of the Rules of Civil Procedure.

Jared S. des Rosiers
Alternate Chair

Richard L. Hornbeck
Alternate Employer
Representative

Wayne W. Whitney
Alternate Employee
Representative