

VERMONT LABOR RELATIONS BOARD

VILLAGE OF ESSEX JUNCTION)	
EMPLOYEES' ASSOCIATION)	
)	
and)	
)	
LOCAL 1343, AFSCME, AFL-CIO)	DOCKET NO. 91-17
)	
and)	
)	
VILLAGE OF ESSEX JUNCTION)	

ORDER OF CERTIFICATION

On February 21, 1991, the Village of Essex Junction Employees' Association ("Association") filed a Petition for Election of Collective Bargaining Representative, seeking to represent employees employed by the Village of Essex Junction ("Village") who were represented by Local 1343, AFSCME, AFL-CIO ("Union"). The petition was accompanied by supporting signature cards, signed by not less than 30 percent of the employees in the established bargaining unit, indicating that the employees wished to be represented by the Association.

The Village filed a response to the petition on March 21, 1991. The Union filed a response to the petition on March 26, 1991 and opposed the Association's petition on two grounds. First, the Union claimed that the Association had not demonstrated a sufficient showing of interest, claiming that the Association was required to demonstrate that 51 percent of the established bargaining unit no longer supported the Union. The Board disagreed and determined that 30 percent was sufficient for a showing of interest, pursuant to Section 33.3 of the Board Rules of Practice and 21 VSA §1724(a). 14 VLRB 157 - 158.

3/26/91, 10:00 AM

Second, the Union contended that the Association's petition was untimely pursuant to 33.2 of the Board's Rules of Practice because there was a collective bargaining agreement in force between the Village and the Union which would remain in effect until a successor agreement was signed by the parties. The Village and the Union had not negotiated a successor agreement to this agreement when the Association filed its petition. The Board concluded that the intent of Section 33.2 of the Board Rules of Practice is to provide an opportunity for a petition to be filed after the contractually provided date of "expiration" of a contract even when the contract remains in "effect" as long as "a successor agreement had not become effective." Thus, the Board determined the petition filed was timely even though the contract between the Village and the Union remained in effect since it was filed after the expiration date of the contract and a successor agreement was not effective at the time the petition was filed. 14 VLRB 158 - 159.

On May 6, 1991, the Board ordered that an election be conducted among the employees of the Village of Essex Junction presently represented by Local 1343, AFSCME, AFL-CIO, to vote on whether they wished to be represented by Local 1343, AFSCME, AFL-CIO, the Village of Essex Junction Employees Association, or no union.

The Village was requested to submit a list of all eligible voters as of the payroll period ending June 23, 1991. No objections to this list were filed by either the Union or the Association. An election was conducted by Linda McIntire, Board

Labor Relations Specialist, on June 27, 1991 in the Meeting Room of the Village of Essex Junction at 2 Lincoln Street. The employees eligible to vote in the election were employees of the Street Department, Water Department, Sanitation Department, Waste Water Department, Library, and Village Hall offices, excluding supervisory and confidential employees, employed by the Village. Lindol Atkins, Jr., Union President observed for the Union. Shawn Mesick observed for the Association. No one observed for the Village. Seventeen of the eighteen eligible employees voted. The results of the election were:

Local 1343, AFSCME, AFL-CIO	8
Village of Essex Junction Employees' Association	8
No Union	1

Pursuant to 21 VSA §1724(f) and Section 33.26 of the Board's Rules of Practice, a runoff representation election was scheduled for July 12, 1991, between the two choices receiving the largest number of votes cast in the June 27, 1991, election (i.e., Local 1343, AFSCME, AFL-CIO and the Village of Essex Junction Employees' Association). The Village submitted a list of all eligible voters as of the payroll period ending June 23, 1991, and still employed by the Village. The Union objected in a timely manner to one name on the list, David Eckert, because Eckert was a probationary employee. Pursuant to 21 VSA §1722(12)(C) and the Board Rules of Practice, the Board agreed with the Union and determined that Eckert was ineligible to vote in the runoff representation election.

Linda McIntire, Board Labor Relations Specialist, conducted the runoff representation election on July 12, 1991, in the Meeting Room of the Village of Essex Junction at 2 Lincoln Street. Lindol Atkins, Jr., Union President, observed for the Union. Shawn Mesick observed for the Association. No one observed for the Village. All seventeen eligible employees voted. The results of the runoff representation election were:

Local 1343, AFSCME, AFL-CIO	7
Village of Essex Junction Employees' Association	10

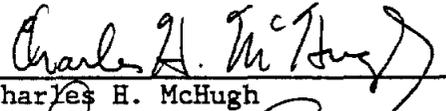
On July 22, 1991, the Union objected to the June 27, 1991, representation election. The Union contended that because the first election should have been to "decertify" or "not decertify" the Union, and since the vote was eight for the Union, eight for the Association, and one voting for no union, the Union should have been declared the winner because the mover of the petition, the Association, did not have 51% of the vote. The Board, pursuant to 21 VSA §1724 and the Board Rules of Practice, determined that the Union's objection was without merit.

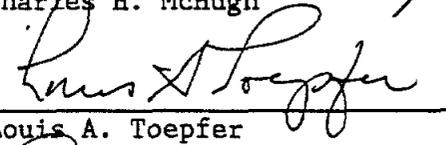
As a result of the runoff representation election on July 12, 1991, it is hereby ORDERED that the Village of Essex Junction Employees' Association is CERTIFIED as the exclusive bargaining representative of the employees of the Street Department, Water Department, Sanitation Department, Waste Water Treatment Plant, Library, and Village Hall offices, excluding supervisory and confidential employees, employed by the Village of Essex

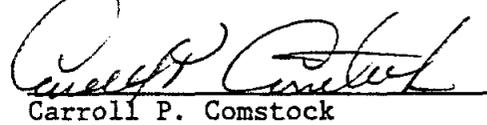
Junction, and Local 1343, AFSCME, AFL-CIO, is no longer certified as the representative of the employees.

Dated this 5th day of August, 1991, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD


Charles H. McHugh


Louis A. Toepfer


Carroll P. Comstock