STATE OF DELAWARE
PUBLIC EMPLOYMENT RELATIONS BOARD

SMYRNA POLICE EMPLOYEES ASSOCIATION,
Petitioner,

U.L.P. No. 97-02-203

v.

TOWN OF SMYRNA,
Respondent.

PROBABLE CAUSE DETERMINATION

The Petitioner, Smyrna Police Employees Association ("Association"), is an employee organization within the meaning of 19 Del.C. §1602 (F) and the exclusive representative of certain employees of the Respondent within the meaning of 19 Del.C., § 1602(g). The Respondent, Town of Smyrna, is a public employer within the meaning of 19 Del.C. § 1602(l).

The Complaint filed with the Board on February 19, 1997, alleges that by excluding members of the bargaining unit represented by the Petitioner from participation in a policy concerning cost of living adjustments which has traditionally been uniformly applied to all full time employees, the Respondent has violated 19 Del.C. §1607(a)(1), (a)(3) and (a)(6).

DISCUSSION

Wages and salaries constitute mandatory subjects of bargaining under §1602(n), of the Act. The PERB has consistently held that the unilateral change in a mandatory subject of bargaining at least through the conclusion of the fact-finding process violates the Act.

The PERB has previously recognized that issues are best resolved within the limited context of each specific factual setting rather than by the application of broad sweeping principles. The circumstances present here are unique in that they have not, heretofore, been addressed by the PERB. For this reason, there exists no valid basis for concluding either that an unfair labor practice may or may not have occurred. For this reason, the Petitioner is entitled to have the complaint processed through the unfair labor practice proceedings.

DECISION

The circumstances raise a legitimate issue involving these two (2) parties. In the absence of any allegation of procedural irregularity, of which there is none, the Complaint is properly before the PERB for resolution. An informal conference will be scheduled in the immediate future for the purpose of determining the appropriate procedure for establishing a factual record upon which argument can be made and a decision rendered.

March 17, 1997
(Date)

Charles D. Long
Charles D. Long,
Executive Director