

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

In the Matter of the Petition of :
WAUKESHA CITY EMPLOYEES, AFSOME, AFL-CIO, :
LOCAL 97 :
Involving Employes of : Case II
: No. 8780 ME--55
: Decision No. 6153
CITY OF WAUKESHA Employed in the STREET :
AND PARK DEPARTMENT :

Appearances:

Mr. Arthur Wells, District Representative of American Federation of State, County, and Municipal Employees, AFL-CIO; Mr. William Sobrofski, President of the Local 97; and Mr. Marvin Wilson, Union Steward, for the petitioning Union.

Mr. Walter E. Dick, Director of Public Works in City of Waukesha; Mr. Arthur Kutschenreuter, Street Superintendent and Alderman, City of Waukesha; Mr. Raphael Sporer, Alderman, City of Waukesha; Mr. Charles Heyer, Superintendent of Parks, and Recreation for the City of Waukesha, for the petitioning unit.

DIRECTION OF ELECTION

The above named petitioner having petitioned the Wisconsin Employment Relations Board to conduct an election, pursuant to Section 111.70 of the Wisconsin Statutes, among certain employes of the above named Municipal Employer; and a hearing on such petition having been conducted at Waukesha, Wisconsin on August 14, 1962, James L. Greenwald, Examiner, being present; and the Board having considered the evidence and arguments of Counsel and being satisfied that a question has arisen concerning representation for certain employes of said Municipal Employer;

NOW, THEREFORE, it is

DIRECTED

That an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Board within sixty (60) days from the date of this directive in each of the following collective bargaining units:

Unit No. I

All regular full-time and regular part-time employees of the City of Waukesha employed in the Street Department, excluding executives, supervisory and confidential employees, who were employed by said Municipal Employer on October 31, 1962, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of such employees desire to be represented by Waukesha City Employees, AFSCME, AFL-CIO, Local 97 for the purposes of conferences and negotiations with the above named Municipal Employer on the questions of wages, hours and conditions of employment.

Unit No. II

All regular full-time and regular part-time employees of the City of Waukesha employed in the Park Department excluding executives, supervisors and confidential employees who were employed by said Municipal Employer on October 31, 1962, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of such employees desire to be represented by Waukesha City Employees, AFSCME, AFL-CIO, Local 97 for the purposes of conferences and negotiations with the above named Municipal Employer on the questions of wages, hours and conditions of employment.

Given under our hands and seal at the
City of Madison, Wisconsin, this 31st
day of October, 1962.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Morris Slavney /s/

SEAL

J. E. Fitzgibbon /s/

Arvid Anderson /s/

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

In the Matter of the Petition of :

WAUKESHA CITY EMPLOYEES, AFSCME, AFL-CIO, :
LOCAL 97 :

Involving Employees of :

CITY OF WAUKESHA Employed in the STREET :
AND PARK DEPARTMENT :

Case II
No. 8780 ME-55
Decision No. 6153

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

Waukesha City Employees, AFSCME, AFL-CIO, Local 97, herein-
after referred to as the Union, filed three petitions with the
Wisconsin Employment Relations Board requesting the Board to conduct
elections in three separate bargaining units consisting of (1) "All
Employees of the Waukesha City Park Department and Street Department
except superintendents, supervisory personnel, and confidential
secretaries", (2) "blacksmith in the Waukesha City Street Depart-
ment", and (3) "automotive mechanics in the Waukesha City Street
Department". At the outset of the Board hearing the Union and
Municipal Employer agreed that the blacksmith and the automotive
mechanics were not engaged in performing "craft" duties within the
meaning of Section 111.70 of the Wisconsin Statutes and they stipulated
that said employees should be included in the unit of Street Depart-
ment employees. The Union orally requested to withdraw the petitions
filed with respect to the blacksmith and automotive mechanics. The
Board is, today, dismissing the petitions filed by the Union with
respect to those employees.^{1/}

Also at the outset of the hearing the Union requested leave to
amend its remaining petition so as to separate the unit claimed
originally as being appropriate into two units, one consisting of
employees in the Street Department and the other consisting of
employees in the Park Department. The Municipal Employer agreed

that Street Department employes and Park Department employes should constitute separate bargaining units. Therefore the Board has directed elections in the two separate collective bargaining units as described in the Direction of Election issued herein.

STREET DEPARTMENT

The parties are in agreement that the appropriate bargaining unit involving Street Department employes should consist of all employes of the Street Department excluding executives, supervisory personnel and confidential employes. There is an issue as to who are supervisory personnel and also as to whether the Weed Commissioner should be excluded from the eligibles. The Municipal Employer would exclude crew leaders Clarence Staab, Harry Dallman, Arthur Hoeft, Samuel James, Dewey Jensen, Fred Wilcox, Edward Christoph, and Marvin Wilson as supervisory. It would also exclude Elmer Smith, the Weed Commissioner. The Union contends that the crew leaders perform supervisory functions only incidental to performing work similar to that performed by other employes and therefore the crew leaders should not be excluded from the unit since they are not truly supervisory. The Union would include Elmer Smith as being eligible since a portion of his time is spent in performing duties other than that of the Weed Commissioner.

The record discloses that Clarence Staab spends from 75% to 90% of his time directing the activities of 2 two-man flushing crews and 2 two-man dragging crews and an employe who operates a sewer rod. He handles emergency calls and orders parts for equipment used by his crew. The remaining crew leaders spend approximately 25% of their time directing the work of other employes and that the remainder of their time is spent in performing work similar to that performed by other employes. The crew leaders receive only five (5¢) per hour more than the employes whom they "supervise". Their \$2.00 per week differential over and above the wages received by the employes claimed supervised convinces the Board that the Municipal

Employer has not cloaked the crew leaders with such supervisory authority so as to exclude them from the eligibles.

Elmer Smith bears the title of Weed Commissioner. He was appointed to such position by the Mayor and approved by the City Council, according to local ordinance. During six months of the year he acts as the Weed Commissioner, inspecting land overgrown by weeds, notifies owners of such condition, directs employes to cut weeds and contacting the public with respect to his duties. He spends the remaining six months of the year as a traffic sign maintenance man. Since Smith spends approximately 50% of his time performing duties in the Street Department, other than that of Weed Commissioner, he is eligible to vote in the election, not as the Weed Commissioner, but rather as a traffic sign maintenance man.

In order that there be no question as to the classifications included as eligibles in the unit they are as follows: All regular full-time and regular part-time crew leaders, acting crew leader, blacksmith, automotive mechanics, mechanics helpers, traffic sign maintenance men II, general office stock room attendant, stock room attendant, motor equipment operators III, II, and I, public works maintenance men, janitors, inspectors, and parking meter custodian, Executive, supervisory, and confidential employes are excluded.

PARK DEPARTMENT

The Park Department contains the following classifications of employes: tree cutting foreman and assistant forester, tree trimmer, gardener, stock clerk, maintenance mechanic, maintenance man, and laborer. An issue arose with regard to the eligibility of William Wilderman, whom the Municipal Employer has designated as the tree crew foreman and assistant forester. The Municipal Employer would exclude Wilderman as a supervisor. The superintendent of the department testified that Wilderman spends approximately 100% of his time performing supervisory functions, that Wilderman can effectively

recommend the hiring and discharging of employees under his supervision, and that at certain times of the year Wilderman has three full-time and two part-time employees under his immediate supervision. Wilderman also attends conferences on forestry subjects and may make reports directly to the Park and Recreation Departments of the Municipal Employer. It seems strange to the Board that Wilderman can spend almost all of the time only supervising at the most, five employees, however there was no evidence to dispute the testimony of Wilderman's supervisory function and therefore we must conclude that Wilderman should be excluded from the list of eligibles because of the supervisory character of his position.

Dated at Madison, Wisconsin, this 31st day of October, 1962.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Morris Slavney /s/

J. E. Fitzgibbon /s/

Arvid Anderson /s/