

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of :

DRIVERS, SALESMEN, WAREHOUSEMEN, MILK :
PROCESSORS, CANNERY, DAIRY EMPLOYEES :
AND HELPERS UNION LOCAL 695 affiliated :
with the INTERNATIONAL BROTHERHOOD OF :
TEAMSTERS :

Case XXXI
No. 16715 ME-918
Decision No. 12111

Involving Certain Employes of :

CITY OF MADISON :

ORDER DISMISSING PETITION

Drivers, Salesmen, Warehousemen, Milk Processors, Cannery, Dairy Employees and Helpers Union Local 695 affiliated with the International Brotherhood of Teamsters having filed a petition with the Wisconsin Employment Relations Commission requesting that an election be conducted, pursuant to Section 111.70, Wisconsin Statutes, among all meter maids and animal control officers employed by the City of Madison, excluding all other employes, to determine what, if any, representation said employes desire for the purposes of collective bargaining; and hearing in the matter having been conducted at Madison, Wisconsin, on May 14, 1973, before Morris Slavney, Chairman, during the course of which Wisconsin Council of County and Municipal Employees, AFSCME Local 60, AFL-CIO, having been permitted to intervene in the matter on the basis that said organization and the City were parties to a collective bargaining agreement covering the employes involved in the instant petition, as well as other employes of the City of Madison; and the Commission having reviewed the record, the arguments and briefs of Counsel, being fully advised in the premises and being satisfied that the unit desired by the petitioning organization is not an appropriate unit within the meaning of Section 111.70(4)(d)2.a. of the Municipal Employment Relations Act;

NOW, THEREFORE, it is

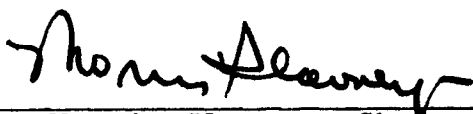
ORDERED

That the petition filed herein be, and the same hereby is, dismissed.

Given under our hands and seal at the
City of Madison, Wisconsin, this 23rd
day of August, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


J. B. Kerkman, Commissioner

MEMORANDUM ACCOMPANYING ORDER DISMISSING PETITION

Teamsters Local No. 695 filed a petition with the Commission requesting an election among all meter maids and animal control officers employed by the City of Madison. During the course of the hearing on said petition, AFSCME Local 60 was permitted to intervene on its claim that the employees in the unit claimed to be appropriate by Teamsters Local No. 695 are presently represented by AFSCME Local 60 and are included in the coverage of the collective bargaining agreement effective December 17, 1972, through at least December 15, 1973. Said agreement covers non-professional and non-clerical positions employed in the various departments of the City.

There are 15 meter maids and 4 animal control officers employed by the City. The "nature of the work" performed by meter maids and the "knowledges and abilities and skills" desired are set forth in the City's job description of that position as follows:

"NATURE OF WORK"

This is specialized work in the enforcement of city parking ordinances. Working in assigned area or district for the purpose of checking parking meters for overtime violations or for improperly parked vehicles, employees may be assigned to motorized patrol of a district or may be assigned areas of responsibility requiring sustained walking. Duties include issuing a notice of violation to motor vehicle operators; observing hazardous parking violations and taking the proper enforcement action against the operator or the vehicle by the issuance of a notice of violation; enforcing unmetered zones for parking violations of time restrictions; answering inquiries and giving directions to the public; responding to radio calls from a dispatcher regarding complaints of parking violations and writing reports following such calls; promoting public relations through the exercise of courtesy, good judgment and understanding; giving tourists information; observing defective parking meters and recording same on the proper form for the attention of the Traffic Division; and in general, enforcing all parking regulations within the assigned district or area. Related work is performed as required.

DESIRABLE KNOWLEDGES, ABILITIES AND SKILLS

Thorough knowledge of the geography of the city; thorough knowledge of the locations of parking meter areas, parking regulations and restrictions in an assigned district; ability to deal courteously and firmly with the general public; ability to understand and carry out oral and written instructions; ability to testify in court; ability to take the initiative and show resourcefulness in solving any situation that arises relative to parking violations; and ability to keep accurate data and reports."

The "nature of the work" performed by animal control officers and the "knowledges and abilities and skills" desired are set forth in the City's job description of that position as follows:

"NATURE OF WORK

This is specialized work in the enforcement of city ordinances governing the licensing, impounding, treatment, and disposal of animals. Work is performed independently and is normally reviewed daily from submitted reports by a uniformed police officer. Duties and responsibilities include responding to calls involving dogs and other animals; locating such animals upon call; driving a radio-equipped vehicle and wearing a duty uniform when performing duties; enforcing city and State laws pertaining to animals; patrolling the city for stray & unlicensed animals; investigating complaints and reports of nuisances; investigating bite cases, advising animal owners that impounding is necessary, and following up on such cases for compliance purposes; advising owners concerning animal regulations, laws and ordinances; writing reports daily of all activities; working with Humane Society where cruelty to animals is involved; using tranquilizer gun to subdue animals and using traps and nooses when necessary; and attending court if necessary. Related work is performed as required.

DESIRABLE KNOWLEDGES, ABILITIES AND SKILLS

Considerable knowledge of the habits, care and other requirements of wild and domesticated animals; thorough knowledge of the pertinent ordinance governing the licensing, impounding, treatment and disposal of animals; ability to operate a police radio; ability and skill in handling animals which may be rabid; ability to safely handle animals; ability to meet the public with tact and courtesy and to offer clear explanations; ability to keep records and make oral and written reports."

Section 5.01(3) of the regulations of the Police Department sets forth the following with regard to meter maids:

"(3) Meter Maids. Meter maids shall be noncommissioned personnel under the jurisdiction of the Chief of Police who shall be responsible for their supervision and direction. They shall be appointed by the Chief of Police in accordance with and hold their positions under Section 3.35 of the General Ordinances entitled 'Civil Service System.' Their duties shall be to patrol assigned areas during periods designated to check for parking violations, to issue violation tickets or violation notices on form prescribed by the department; to answer inquiries and give directions to the public and to be of service within the range of the job assignment; to observe, record and report defective or damaged meters; and to perform such other duties as are related to those enumerated. They shall not be police officers and shall have no police powers to arrest. They shall wear a uniform prescribed by the Chief of Police and shall be entitled to the uniform allowances authorized by section 3.39 (2) of the General Ordinances'. The uniform shall be composed of the following articles:

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|----------------|----------------------|
| 1. Cap or hat. | 6. Winter Slacks. |
| 2. Tie. | 7. Winter overcoats. |
| 3. Shirt. | 8. Rain coat. |
| 4. Blouse. | 9. Rain hat or cap. |
| 5. Skirt. | 10. Storm boots. |

They shall receive such salary as is provided in section 3.38 of the General Ordinances, said salary to be paid from the parking utility budget and to be subject to change upon recommendation of the Chief of Police."

Teamsters Local No. 695 contends that the meter maids and animal control officers are para-police personnel and may constitute an appropriate unit, and that Section 111.70(4)(d) permits the Commission to decide whether certain employees may determine for themselves whether they desire to constitute a unit separate and apart from other employees. Teamsters Local No. 695 also contends that the meter maids, since they are enforcing parking regulations, which was formerly performed by police officers, and since they perform police type duties in directing traffic during accidents, searching for stolen vehicles, etc., and since they participate in police briefing and are in communication with police dispatchers, are performing quasi-police duties.

Teamsters Local No. 695 also contends that since the animal control officers duties require him to be deputized to use fire arms, serve warrants, and to take animals without their owners consent, also perform para-police duties, and therefore should be included in a separate unit along with the meter maids. It further argues that the two positions are "uniformed" and have a community of interest separate and apart from that of other municipal employees.

AFSCME Local 60 argues that many of the employees presently included in the collective bargaining agreement, which also covers the meter maids and animal control officers, have a variety of work schedules and a variety of duties. It further contends that while the meter maids and animal control officers are under the direct supervision of police personnel, other employees in the collective bargaining unit covered in the agreement between it and the City perform work closely related to the exercise of the police function, e.g., the duties of the electronic traffic control employees who correct malfunctions in such systems. AFSCME Local 60 further argues that there are approximately 40 clerical and related employees occupying approximately 6 job titles who are supervised by police personnel, but who are in a clerical unit presently represented by AFSCME Local 60. In addition the latter organization contends that other City employees in other departments perform services supportive of police work, e.g., the personnel in the City laboratory who analyze blood samples and who may be called to testify in court proceedings.

The City also opposes the request of Teamsters Local No. 695, and urges the Commission to dismiss the petition on the basis that the unit set forth therein would be inappropriate. The City argues that neither classification is vested nor possesses any semblance of police power, and that under the general ordinances of the City the animal control officers have only the powers and duties set forth relating to the control of animals and that they possess no police power or quasi-police power of arrest, and further that the animal control officers occupy a position within the civil service of the City, as do other non-commissioned personnel employed in the Police Department, who perform services related to, associated with, and in support of the duties and tasks performed by law enforcement personnel.

While Section 111.70(4)(d) permits the Commission to establish units, and provides a procedure for certain employees to determine whether they desire to establish themselves as a separate unit, the section also contains an admonition that the Commission "shall whenever possible avoid fragmentation by maintaining as few units as practicable in keeping with the size of the total municipal work force."

anti-frag language

The fact that the meter maids and animal control officers are uniformed and may perform quasi-police functions, does not convince the Commission either to establish a separate unit of meter maids and animal control officers or to permit the employees occupying such classifications to determine for themselves whether they desire to constitute a unit separate and apart from other employees of the City. Other employees, supportive of the police function, such as clericals who are under the supervision of law enforcement personnel, are in a general unit of clerical employees and related positions. In addition, the fact that meter maids and animal control officers may be under supervision which is common to law enforcement personnel is unconvincing to warrant the establishment of a separate unit of the positions requested, either standing separately, or in conjunction with the performance of quasi-police work. Further the fact that the positions involved have been included in an existing unit of employees employed in various departments under varied supervision, establishes a bargaining history contrary to the unit requested. To establish a separate unit for the positions involved, because of the nature of the work performed by the employees and because of their separate supervision, that is supervision separate and apart from a majority of the employees in the existing unit, would create a policy which would result in extreme fragmentation of bargaining units, a result to be avoided by legislative directive. We have therefore today dismissed the petition for the reason that the unit sought is not deemed to be an appropriate unit.

Dated at Madison, Wisconsin, this 23rd day of August, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman

Jos. B. Kenkman
Jos. B. Kenkman, Commissioner