

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

CITY OF WATERTOWN

Case XII  
No. 19404 AE-1222  
Decision No. 13942

Mr. Darold O. Lowe, District Representative, appearing on behalf of the Petitioner.

Peck, Brigden, Petajan, Lindner, Honzik and Peck, S.C., Attorneys at Law, by Mr. Roger E. Walsh, appearing on behalf of the City of Watertown.

Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, hereinafter referred to as the Petitioner, having filed a petition with the Wisconsin Employment Relations Commission to conduct an election pursuant to the Municipal Employment Relations Act, among certain employees of the City of Watertown, hereinafter referred to as the Municipal Employer or City, and a hearing on such petition having been conducted at Watertown, Wisconsin on August 27, 1975, before Kay Hutchison, Hearing Officer, and the Commission having considered the petition and evidence 1/ and being satisfied that questions of appropriate units and representation have arisen for certain employees of said Municipal Employer;

Now, THEREFORE, it is

DIRECTED

That elections by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within thirty (30) days from the date of this directive, in the following voting groups:

VOTING GROUP NO. 1

All regular full-time and regular part-time employees of the City of Watertown employed in the following positions: administrative, technical and clerical employees employed in the Mayor's office, City Clerk's office, Treasurer's office, Assessor's office, Public Works, engineering, and Street Departments, Inspection Department, Health Department, Library, Park and Recreation Department, and in the Police Department (non-sworn employees), plant operators and maintenance employees employed in the Sewage Department, landfill operators employed at the

1/ The hearing was stenographically recorded. However, the parties waived the provision of Section 227.12 of the Wisconsin Statutes, thereby permitting the Commission to issue its direction of election without resort to the transcribed record, or submission of the hearing officer's recommendations to the parties.

sanitary landfill; building maintenance employees employed at City Hall and the Library, and parking meter repairmen; conditionally excluding all regular full-time and regular part-time professional nurses and also conditionally excluding all regular full-time and regular part-time craft employees (Plumbing Inspectors and Electrical Inspectors) and full, excluding all supervisory, managerial, executive, professional, craft, confidential employees, school crossing guards and all other employees of the City of Watertown who were employed by said Municipal Employer on August 27, 1975, 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 Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, for the purposes of collective bargaining with the above-named Municipal Employer on questions of wages, hours and conditions of employment.

VOTING GROUP NO. 2

All regular full-time and regular part-time professional nurses employed by the City of Watertown excluding supervisory, managerial, executive and confidential employees, and all other employees of the Municipal Employer, for the purposes set forth below.

VOTING GROUP NO. 3

All regular full-time and regular part-time craft employees (Plumbing Inspectors and Electrical Inspectors) employed by the City of Watertown but excluding supervisory, managerial, executive and confidential employees and all other employees of the Municipal Employer, for the purpose set forth below.

The employees in Voting Groups No. 2 and 3 who were employed on August 27, 1975, except such employees as may prior to the election quit their employment or be discharged for cause, shall be given the opportunity to determine:

- (1) Whether a majority of the employees in each of said voting groups desire to be included in a bargaining unit consisting of the employees set forth in Voting Group No. 1; and
- (2) Whether a majority of such employees voting in each of said voting groups desire to be represented by Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, for the purposes of collective bargaining with the City of Watertown on questions of wages, hours and conditions of employment.

Given under our hands and seal at the City of Madison, Wisconsin this *10th* day of September, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

*Norris Slavney*

Norris Slavney, Chairman

*Howard S. Bellman*

Howard S. Bellman, Commissioner

*Herman Torosian*

Herman Torosian, Commissioner

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTIONS

The singular issue in dispute between the parties concerns the specificity of the descriptions for Voting Group No. 2 and Voting Group No. 3. The Union, contrary to the Municipal Employer, requests that voting Group No. 2 be designated as "all regular full-time and regular part-time professional employees . . ." and that voting Group No. 3 be specified as "all regular full-time and regular part-time craft employees . . ." The Municipal Employer requested that Voting Group No. 2 and No. 3 be set forth respectively as "all regular full-time and regular part-time nurses . . ." and "all regular full-time and regular part-time plumbing inspectors and electrical inspectors . . ."

The union argues that the voting groups proposed by the Municipal Employer are too restrictive and would necessitate subsequent unit classification proceedings in the event that the Municipal Employer hired even one additional professional or craft employee. The Municipal Employer avers that the Commission cannot foresee the community of interest of employees in positions which do not presently exist. Therefore, it asserts, that the voting groups should specify the inclusion and exclusion of the positions currently in existence rather than attempt to provide blanket coverage of unanticipated new positions.

Section 111.70(4)(d)2a of the Municipal Employment Relations Act provides that:

"The Commission shall determine the appropriate unit for the purpose of collective bargaining . . . and may decide whether, in a particular case, the employees in the same or several departments, divisions, institutions, crafts, professions, or other occupational groupings constitute a unit . . ." (Emphasis added.)

Inasmuch as at this time the only professional employee of the Municipal Employer is the nurse, and the only craft employees are the Plumbing Inspector and the Electrical Inspector, it is neither necessary, or well advised, in our view, to determine at this time the likelihood of communities of interest that might occur in the future. Therefore, we have named the voting-group descriptions herein without any implication respecting their future expansion into multi-professional or multi-craft units.

The following procedure will be used in the conduct of the balloting.

The representation ballot cast by the employee in the professional group will be challenged by the Commission's agent who conducts the balloting. The Commission's agent will also challenge the ballots cast by the employees in the craft voting group. The sequence of counting the ballots shall be as follows.

1. (a) The ballot cast by the professional employee in the separate professional voting group as to her desire to be included in the overall unit (Voting Group No. 1) will be tallied first.

(b) If the eligible professional employee in the professional voting group does not vote in favor of inclusion in the overall unit, the challenged representation ballot cast by the professional employee will be opened and counted separately. Should the professional employee vote in favor of being included in the overall unit, the Commission's agent shall commingle the ballot cast by the professional with the ballots cast by the eligible, in the overall unit.

2. (a) The ballots cast by the craft employees as to their desire to be included in the overall unit will then be tallied.

(b) If a majority of the eligible craft employees do not vote in favor of inclusion in the overall unit, the challenged representation ballots cast by the craft employees will be opened and counted separately. Should the craft employees vote in favor of being included in the overall unit, the Commission's agent shall co-mingle the ballots cast by the craft employees with the ballots cast by the eligibles in the overall unit thereupon tally the combined ballots, including the ballot cast by the professional nurse should she vote for inclusion in the overall unit.

In the event that the employees in the professional and craft voting groups vote for inclusion in the overall unit, the appropriate bargaining unit shall consist of all regular full-time and regular part-time employees of the City of Watertown employed in the following positions: administrative, technical, and clerical employees employed in the Mayor's office, City Clerk's office, Treasurer's office, Assessor's office, Public Works, Engineering, and Street Departments, Inspection Department, Health Department, Library, Park and Recreation Department, and in the Police Department (non-sworn employees); plant operators and maintenance employees employed in the Sewage Department, landfill operators employed at the Sanitary Landfill, building maintenance employees employed at City Hall and the Library; parking meter repairmen; profession nurses; and craft employees (Plumbing Inspector and Electrical Inspector); but excluding all supervisory, managerial, executive, and confidential employees, school crossing guards and all other employees of the Municipal Employer.

Should the professional and/or craft employees reject inclusion in the non-professional/non-craft unit, such professional and/or craft voting groups shall constitute separate units or unit, as the case may be.

Dated at Madison, Wisconsin this *10th* day of September, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

*Morris Slavney*

Morris Slavney, Chairman

*Howard S. Bellman*

Howard S. Bellman, Commissioner

*Herman Torosian*

Herman Torosian, Commissioner