

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of :
LOCAL NO. 2, AFFILIATED WITH DISTRICT :
COUNCIL 48, AFSCME, AFL-CIO : Case V
Involving Certain Employees of : No. 20872 ME-1373
VILLAGE OF HALES CORNERS : Decision No. 15229
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In the Matter of the Petition of :
LOCAL NO. 2, AFFILIATED WITH DISTRICT :
COUNCIL 48, AFSCME, AFL-CIO : Case VI
Involving Certain Employees of : No. 20873 ME-1374
VILLAGE OF HALES CORNERS : Decision No. 15230
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Appearances:

Mr. Erv Horak, Staff Representative, appearing on behalf of the
Petitioner.
Foley and Lardner, Attorneys at Law, by Mr. Gary J. Okey, appearing
on behalf of the Municipal Employer.

DIRECTION OF ELECTION

Local No. 2, affiliated with District Council 48, AFSCME, AFL-CIO, hereinafter referred to as the Petitioner, having on October 5, 1976, filed petitions with the Wisconsin Employment Relations Commission requesting the Commission to conduct elections, pursuant to Section 111.70(4)(d) of the Municipal Employment Relations Act, among certain employees of the Village of Hales Corners, to determine whether said employees desire to be represented by said Petitioner for the purposes of collective bargaining; and a hearing on such petitions having been held at Hales Corners, Wisconsin on November 16, 1976, before Douglas V. Knudson, a member of the Commission's staff; and during the course of the hearing the Petitioner moved to amend its petitions to seek an election in one combined bargaining unit rather than in two separate bargaining units, to which motion the Municipal Employer expressed no objection; and the Commission being fully advised in the premises and being satisfied that a question has arisen concerning representation for certain employees in the employ of the Municipal Employer;

NOW, THEREFORE, it is

DIRECTED

That an election 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 collective bargaining unit consisting of all regular full-time and regular part-time employees employed by the Village of Hales Corners, excluding supervisory, managerial,

No. 15229
No. 15230

craft, law enforcement, professional and confidential employees, who were employed by the Municipal Employer on February 1, 1977, 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 Local No. 2, affiliated with District Council 48, AFSCME, AFL-CIO, for the purpose of collective bargaining with the above-named Municipal Employer on questions of wages, hours and conditions of employment.

Given under our hands and seal at the
City of Madison, Wisconsin this 1st
day of February, 1977.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney
Morris Slavney, Chairman

Charles D. Hoornstra
Charles D. Hoornstra, Commissioner

VILLAGE OF HALES CORNERS, V and VI, Decision Nos. 15229 and 15230

MEMORANDUM ACCOMPANYING
DIRECTION OF ELECTION

This proceeding was initiated by two petitions filed on October 5, 1976 by the Petitioner requesting that the Commission conduct elections among the following two bargaining units:

1. All employees of the Village of Hales Corners who were employed in the work categories traditionally labeled white collar, exclusive of supervisory, confidential, managerial and professional employees.
2. All employees of the Village of Hales Corners who are employed in work categories traditionally labeled blue collar, exclusive of supervisory and confidential employees.

At the hearing, the Petitioner moved to include all of the employees covered by its petitions into one bargaining unit, rather than the two separate units as described in said petitions. The Municipal Employer did not object to the Petitioner's motion.

At the hearing, the Petitioner contended that the non-professional Library employees should be included in the overall bargaining unit. In its post-hearing brief, the Municipal Employer stated it had no objections to the inclusion in said unit of the clerk-typist employed at the Library. There are three other part-time non-professional employees at the Library. Two of those employees work on a regular basis of eight and four hours per week respectively, and therefore, would be eligible to vote in the election directed herein, based on the Commission's consistent policy that employees employed on a regular part-time basis, regardless of the number of hours worked, are eligible to participate in an election. 1/ The third employee works on a casual, on-call basis, and therefore, would not be eligible to vote in the election.

During the hearing an issue arose concerning the inclusion or exclusion of crossing guards in the overall bargaining unit.

Crossing Guards

The Petitioner believes the seven crossing guards should be excluded from the bargaining unit for the following reasons: the crossing guards do not receive any of the fringe benefits afforded other employees; the crossing guards perform duties and have work schedules which are distinctly dissimilar from the other employees; and, the crossing guards are excluded from participation in the Wisconsin Retirement System. The Municipal Employer would include the crossing guards in the overall bargaining unit because of their close community of interest with other employees and to avoid fragmentation of its relatively small work force.

Each crossing guard is assigned to a street area, or intersection, at which students cross the streets on their way to and from school. The work schedule of the crossing guards is from 8:20 a.m. to 8:50 a.m., from 11:20 a.m. to 12:50 p.m. and from 3:20 p.m. to 3:50 p.m. on each of the 180 school days, which results in approximately ten (10) to twelve and one-half (12 1/2) hours of work per week during nine (9) months in each year.

1/ City of Edgerton (11340) 10/72.

The Municipal Employer has adopted a resolution which limits economic fringe benefits (such as vacation, holidays, insurance and pension plans) to employees who have a regularly scheduled work week of twenty-four (24), or more, hours. Therefore, the crossing guards receive no such benefits. Similarly, four part-time dispatchers, each of whom works twenty (20) hours per week, receive no such benefits. One part-time secretary/clerk, working twenty-four (24) hours per week does receive pro-rated economic fringe benefits and is enrolled in the Wisconsin Retirement Fund. The crossing guards and the dispatchers have common supervision by the Police Chief and his subordinates.

The crossing guards are paid approximately \$3.00 per hour. The dispatchers are paid approximately \$3.50 per hour, while the clerical employees range from \$3.30 to \$4.12 per hour. Similar to other employees, the crossing guards are paid on a bi-weekly basis and receive annual wage reviews and wage adjustments. The wages of the crossing guards are paid from the Municipal Employer's general fund, as are other employee wages.

In the last seven years there has been a turnover of three employees in the seven crossing guard positions.

The facts herein persuade the Commission that the crossing guards possess a sufficient community of interest with the other full-time and regular part-time employees so as to be included in the same unit. The Petitioner's reliance on the Commission's decision in City of Arcadia, Decision No. 8726 (10/68), in which it excluded part-time employees, is misplaced. In that decision, all of the part-time employees were receiving Social Security benefits and did not earn more than the maximum permitted to qualify for benefits under the Social Security Act, in addition to a separate pay scale and a lack of fringe benefits. While the crossing guards do not qualify for fringe benefits, neither do the part-time dispatchers, who work less than twenty-four hours per week, which employees the Petitioner would include in the bargaining unit. Further, the Commission has not adopted as a voting eligibility standard the statutory requirement of 600 hours of work per year for participation in the Wisconsin Retirement Fund. 2/ Rather, the Commission has consistently held that employees employed on a regular part-time basis, regardless of the number of hours worked, are eligible to participate in an election. 3/

The Union requested that the Municipal Employer be directed to furnish it with a list of the addresses of the eligible voters. Such request is denied since such information is a matter of public record under Sec. 19.21, Stats., and may be obtained upon payment of the cost of reproduction pursuant to the provisions of that section and Sec. 889.18(3) Stats.

Dated at Madison, Wisconsin this 1st day of February, 1977.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney

Morris Slavney, Chairman

Charles D. Hoornstra

Charles D. Hoornstra, Commissioner

2/ Section 66.901(4)(c), Stats., subsequently renumbered as Sec. 41.02(6)(b) Stats., Wisconsin Statutes.

3/ Supra, footnote 1.