

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
CITY OF SEYMOUR (POLICE DEPARTMENT)
Involving Certain Employees of
WISCONSIN COUNCIL OF COUNTY AND
MUNICIPAL EMPLOYEES, AFSCME, AFL-CIO

Case IV
No. 25992 ME-1818
Decision No. 17925

Appearances:

Mr. Carl W. Kuehne, Attorney at Law, 420 Doty Street, Green Bay, Wisconsin, appearing on behalf of the Petitioner.
Ms. Lenore J. Hamrick, Business Representative, WCCME, AFSCME, AFL-CIO, 1036 Mount Vernon Street, Oshkosh, Wisconsin, appearing on behalf of the Union.

FINDINGS OF FACT, CONCLUSION OF LAW
AND ORDER DISMISSING PETITION

The City of Seymour having filed a petition on February 20, 1980 with the Wisconsin Employment Relations Commission requesting the Commission to conduct an election among certain employees of said Municipal Employer; and a hearing having been held on May 8, 1980 at Seymour, Wisconsin before Examiner Christopher Honeyman; the Commission, having considered the evidence and arguments of the parties, and being fully advised in the premises, makes and issues the following

FINDINGS OF FACT

1. That the Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, hereinafter the Union, is a labor organization and has its offices at 1306 Mount Vernon Street, Oshkosh, Wisconsin.

2. That the City of Seymour, hereinafter the City, is a municipal employer and has its offices at City Hall, Seymour, Wisconsin.

3. That on September 28, 1979 the Union filed a petition with the Wisconsin Employment Relations Commission requesting that an election be conducted among law enforcement personnel in the employ of the City to determine whether such personnel desired to be represented by the Union for the purposes of collective bargaining; that thereafter and on November 26, 1979 the Union and the City entered into a stipulation for such an election; that thereafter, pursuant to a Direction of Election previously issued by it, the Commission, on December 19, 1979 conducted an election among all full-time deputized police officers in the employ of the City, excluding office clerical employees, supervisors and all other employees; that in said election, of three officers eligible to vote, all three appeared at the polls, however the ballot of Jeff Tauschek was challenged on the basis that Tauschek had prior to the date of the election submitted his resignation to be effective January 13, 1980; that the two remaining officers cast ballots, selecting the Union as the bargaining representative; that on January 18, 1980 the Commission issued its certification of the results of the election without either party having requested that the Commission determine the challenged ballot; that on January 11, 1980 Officer Rodney Rogers, who had also voted in the election, submitted notice to the City that he was resigning his employment as of February 11, 1980; that in December 1979 Tracy Paulson was hired to replace Tauschek; that on February 5, 1980 Michael King was hired to replace Rogers; that on February 20,

1980 the City filed the instant petition requesting the Commission to conduct a new election among the three police officers employed as of that date to determine whether they desired to be represented by the Union for the purposes of collective bargaining.

4. That at no time since their employment with the City have any of the three police officers employed as of February 20, 1980 given the City cause to believe that any one of them was dissatisfied with the Union as their bargaining representative, or that any one of them desired that a new election be conducted to determine whether they would retain the Union as their bargaining representative; and that the City has not established by any objective consideration that any of its officers and agents have a good faith doubt as to whether a majority of the non-supervisory police officers in its employ desire a new election to determine bargaining representative.

Upon the basis of the above and foregoing Findings of Fact the Commission makes and issues the following

CONCLUSION OF LAW

That, since the City of Seymour has not established a sufficient reason for the conduct of a second representation election by the filing of a petition therefor within one day more than two months from the conduct of the first election, the petition filed herein requesting such a second election among all full-time deputized police officers in its employ, excluding office clerical employes, supervisors, and all other employes, is deemed untimely filed within the meaning of Sec. 111.70(4)(d) of the Municipal Employment Relations Act.

Upon the basis of the above and foregoing Findings of Fact and Conclusion of Law, the Commission makes and issues the following

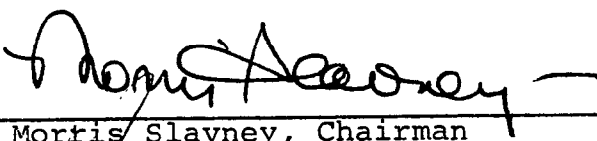
ORDER

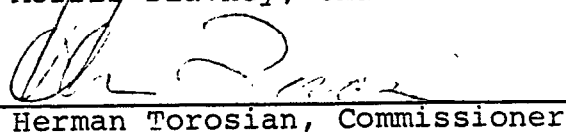
That the petition filed herein be, and the same hereby is, dismissed.

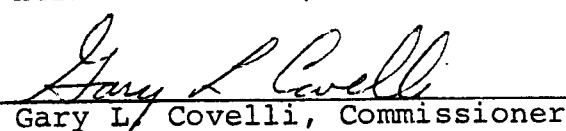
Given under our hands and seal at
the City of Madison, Wisconsin this
7th day of July, 1980.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Herman Torosian, Commissioner


Gary L. Covelli, Commissioner

ell

MEMORANDUM ACCOMPANYING FINDINGS OF
FACT, CONCLUSION OF LAW AND ORDER

In this proceeding the City seeks a second election to determine whether the three police officers in its employ desire to continue their representation by the Union, which in an election conducted on December 19, 1979 had been selected as the bargaining representative by the officers then in the employ of the City. At the time of filing the petition initiating the instant proceeding of the three officers employed, two commenced employment after the first election. During the course of the hearing, in an effort to establish a sound basis for the filing of the instant petition, the City contended that the turnover of two of the three officers in the unit, as well as a result of a conversation of the Chief of Police, John Salchow, with newly hired officer Paulson, established a good faith doubt as to the majority status of the Union. The Union would have the Commission dismiss the petition.

Sec. 111.70(4)(d) of the Municipal Employment Relations Act provides, in pertinent part, as follows:

5. . . . The fact that an election has been held shall not prevent the holding of another election among the same group of employes, if it appears to the commission that sufficient reason for another election exists . . .

Applying that language to the instant case, the Commission must determine whether there exists sufficient reason for conducting another election at this time. The previous election was conducted approximately two months prior to the date on which the instant petition was filed. The passage of that short a period of time does not, without more, constitute sufficient reason for another election. 1/

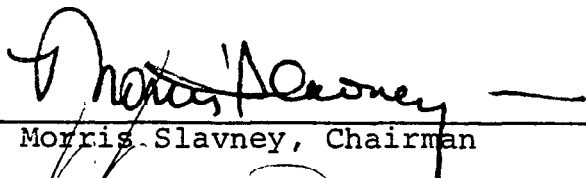
During the course of the hearing Chief Salchow testified that Officer Paulson, shortly after the latter had been hired in December, 1979 stated to Salchow that "he didn't know if he'd be interested in the Union representing him". Paulson, who also testified, stated that his remark to Salchow was intended "to feel out the department to see how strong the department felt about the Union", and that he did not request a new election. The record further establishes that none of the two remaining officers requested a second election, or otherwise indicated a desire not to be represented by the Union.


1/ Milwaukee Area Technical College (11755) 4/73


Paulson's statement to Chief Salchow cannot be interpreted as a repudiation of the Union. We are satisfied that neither the passage of time since the first election, nor the turnover of employes in the unit, nor the statement of Paulson to Chief Salchow, nor the combination of such factors, constitutes sufficient reason for another election to be conducted at this time, and therefore we have dismissed the petition.

Dated at Madison, Wisconsin this 7th day of July, 1980.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Morris Slavney, Chairman


Herman Torosian, Commissioner


Gary L. Covelli, Commissioner