



STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of :
WISCONSIN PROFESSIONAL POLICE : Case VI
ASSOCIATION/LEER DIVISION : No. 28577 ME-2048
Involving Certain Employees of : Decision No. 19226
CITY OF ONALASKA (POLICE DEPT.) :

Appearances:
Dennis A. Pedersen, Business Agent, Route 1, Box 288, Tomah, Wisconsin 54660,
on behalf of the Union.
Ray A. Sundet, City Attorney, City Hall, Main at Fifth, Onalaska, Wisconsin
54650, on behalf of the City.

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DIRECTION OF ELECTION

Law Enforcement Employee Relations Division of the Wisconsin Professional Police Association having on July 29, 1981, filed a petition requesting the Wisconsin Employment Relations Commission to conduct an election, pursuant to the Municipal Employment Relations Act, among certain law enforcement employees in the employ of the Police Department of the City of Onalaska; and a hearing in the matter having been scheduled for October 29, 1981 before Douglas V. Knudson; and, prior to said date, the parties having agreed to waive a hearing and, in lieu thereof, to file written briefs, which briefs were received by November 13, 1981; and the Commission having considered the evidence and being fully advised in the premises, hereby makes and issues the following:

FINDINGS OF FACT

1. That the Law Enforcement Employee Relations Division of the Wisconsin Professional Police Association, herein referred to as the Union, is a labor organization having its offices at 9730 West Bluemound Road, Wauwatosa, Wisconsin 53226.
2. That the City of Onalaska, herein referred to as the City, is a municipal employer with offices at City Hall, 415 Main Street, Onalaska, WI 54650.
3. That the City and the Onalaska Professional Policemen's Association are parties to a collective bargaining agreement covering the time period of January 1, 1981 through December 31, 1981; and, that said agreement contains the following provisions:

ARTICLE I

any bookkeeper or clerical personnel and any part-time personnel.

. . .

ARTICLE IV

TENURE AND PROBATIONARY PERIOD

Section 1. Tenure shall begin with the original date of employment following satisfactory completion of the one year working probationary period, thereafter, said employee shall have tenure as a permanent employee unless notified otherwise prior to completion of the one year working probationary period.

. . .

Section 6. Officers that have not completed their probationary period are not covered by this contract.

. . .

4. That, currently the Police Department employs the following employees with the power of arrest; the Chief, one Lieutenant, one Sergeant, seven non-probationary officers and three probationary officers; and, that there are no regular part-time officers currently employed by the Police Department.

5. That the parties stipulated that the Chief, John Dlouhy, the Lieutenant, Thomas Rastall, and, the Sergeant, William Crothers, be excluded from the bargaining unit on the basis that they are supervisors.

6. That the Onalaska Professional Policemen's Association does not desire either to appear on the ballot in the election directed herein, or, to continue to represent the law enforcement employees of the City.

7. That, contrary to the Union, the City contends that neither part-time nor probationary employees should be included in the bargaining unit.

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

CONCLUSIONS OF LAW

1. That all regular full-time and regular part-time law enforcement employees with the power of arrest employed in the Police Department of the City of Onalaska, but excluding supervisory, managerial, confidential, and, all other employees, constitute an appropriate collective bargaining unit within the meaning of Section 111.70(4)(d) of the Municipal Employment Relations Act.

2. That John Dlouhy, Police Chief, Thomas Rastall, Lieutenant, and William Crothers, Sergeant, are supervisory employees within the meaning of Section 111.70 (1)(o) of the Municipal Employment Relations Act, and therefore, said employees are excluded from the collective bargaining unit set forth above.

3. That regular part-time employees are employees within the meaning of Section 111.70(1)(b) of the Municipal Employment Relations Act, and therefore, are eligible to participate in the election directed herein and are included in the collective bargaining unit set forth above.

4. That the probationary officers are appropriately included in the collective bargaining unit set forth above and are eligible to participate in the election directed herein.

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

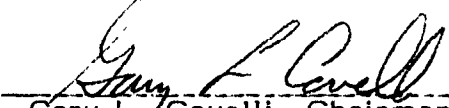
DIRECTION OF ELECTION

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 law enforcement employees with the power of arrest employed in the Police Department of the City of Onalaska, but excluding supervisory, managerial, confidential, and, all other employees, who were employed on December 28, 1981, 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 voting desire to be represented by the Law Enforcement Employee Relations Division of the Wisconsin Professional Police Association for the purpose of collective bargaining with the City of Onalaska with respect to wages, hours and conditions of employment.

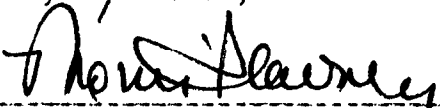
Given under our hands and seal at the City of
Madison, Wisconsin this 28th day of December, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By



Gary L. Covelli, Chairman



Morris Slavney, Commissioner

MEMORANDUM ACCOMPANYING FINDINGS OF FACT,
CONCLUSIONS OF LAW AND DIRECTION OF ELECTION

Contrary to the Union, the City contends that neither part-time, nor probationary, employees should be included in the bargaining unit at issue herein.

Although the City currently does not employ any regular part-time law enforcement employees, the Commission has a long-standing policy of including such employees in the bargaining unit and of allowing said employees to participate in the election. 1/ The Commission has held that employees who work a regular schedule, albeit on a part-time basis, have a definite interest in wages, hours and conditions of employment along with full-time employees. 2/ The record contains no basis to conclude such a community of interest should be ignored in this matter.

The Commission consistently has allowed probationary employees to participate in an election, unless they do not have a reasonable expectancy to remain in employment and become regular employees. 3/ Such a policy is not based on the similarity of the working conditions between probationary and regular employees, but rather, is based on the probationary employees' substantial interest in the working conditions of regular employees following the successful completion of the probationary period. There is no evidence in the record to establish that the probationary employees involved in this proceeding lack such a reasonable expectancy of continued employment. Therefore, the probationary employees are included in the bargaining unit and are eligible to participate in the election directed herein.

Dated at Madison, Wisconsin this 28th day of December, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Gary L. Covelli, Chairman


Morris Slavney, Commissioner

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- 1/ School District of Ashland (18085) 10/80; Marinette General Hospital (7569) 4/66.
- 2/ Manitowoc County (10899) 3/72.
- 3/ LaCrosse County (13405) 5/75; Taylor County (8178) 9/67.