

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of  
**WISCONSIN PROFESSIONAL POLICE ASSOCIATION/  
CIVILIAN EMPLOYEE RELATIONS DIVISION**

Involving Certain Employees of  
**CITY OF MADISON**

Case 269  
No. 69969  
ME-4240

**Decision No. 33090**

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**Appearances:**

**James L. Palmer II**, Executive Director, 340 Coyier Lane, Madison, Wisconsin, 53713, appearing on behalf of the Wisconsin Professional Police Association/Civilian Employee Relations Division.

**Mike Dieters**, Labor Relations Manager, Room 501, 210 Martin Luther King, Jr. Boulevard, Madison, Wisconsin 53703, appearing on behalf of the City of Madison.

**Scott D. Soldon**, Attorney at Law, Previant, Goldberg, Uelmen. Gratz, Miller & Brueggeman, S.C. 1555 North Rivercenter Drive, Suite 202, Milwaukee, Wisconsin, 53212, appearing on behalf of Teamsters Union Local No. 695.

**ORDER DISMISSING PETITION FOR ELECTION**

On June 28, 2010, the Wisconsin Professional Police Association/Civilian Employee Relations Division (WPPA) filed a petition with the Wisconsin Employment Relations Commission seeking an election among certain employees of the City of Madison currently represented for the purposes of collective bargaining by Teamsters Union Local No. 695 to determine whether said employees wished to be represented by the WPPA or by Teamsters or by neither labor organization.

No. 33090

On July 2, 2010, Teamsters filed a motion to dismiss arguing the election petition is untimely filed because of a pending interest arbitration petition. By letter dated July 6, 2010, the City advised the Commission that it also believed the petition was untimely. WPPA did not file a response to the motion and the record was closed on July 16, 2010.

Having considered the matter and being fully advised in the premises, the Commission makes and issues the following

**ORDER**

The petition for election is dismissed.

Given under our hands and seal at the City of Madison, Wisconsin, this 10<sup>th</sup> day of August, 2010.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/

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Judith Neumann, Chair

Paul Gordon /s/

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Paul Gordon, Commissioner

Commissioner Susan J. M. Bauman did not participate.

CITY OF MADISON

MEMORANDUM ACCOMPANYING ORDER  
DISMISSING PETITION FOR ELECTION

The operative facts are undisputed. On June 25, 2010, the City of Madison filed an interest arbitration petition with the Commission regarding a successor collective bargaining agreement covering certain City transit employees represented for the purposes of collective bargaining by Teamsters. The prior agreement between Teamsters and the City had expired December 31, 2009. On June 28, 2010, WPPA filed its election petition seeking to displace Teamsters as the collective bargaining representative of the transit employees.

In MUKWONAGO SCHOOLS, DEC. NO. 24600 (WERC, 4/87), the Commission stated:

Determinations as to the timeliness of election petitions seeking to change or eliminate the existing bargaining representative require that we balance competing interests and rights. On the one hand, we have the interest of encouraging stability in collective bargaining relationships which enhances the potential for labor peace. On the other hand, we have the statutory right of employees to bargain collectively through representatives of their own choosing, which right necessarily includes the right to change or eliminate a chosen representative. Historically, we have balanced these competing interests and rights by concluding that there should be a guaranteed but limited time prior to commencement of bargaining for a successor agreement when an election petition can be timely filed. Thus, our contract bar policy provides that during the 60-day period prior to the reopening date for commencement of negotiations on a successor agreement, an election petition can be timely filed. The interests of stability have caused us to conclude that a petition filed during the term of a contract and prior to or after this 60-day period is untimely.

**Where no election petition has been timely filed during the 60-day period prior to the reopener date, and the union and/or employer have invoked the statutory interest arbitration procedures in an effort to reach a successor agreement, we have held that the interests of stability warrant finding an election petition filed during the pendency of an interest arbitration petition to be untimely.** However, mindful of the statutory rights of municipal employees and municipal employers to raise questions as to representation, we have also concluded that this interest arbitration bar is extinguished once the term of the contract being arbitrated (under either party's offer) has expired. Our holdings provided municipal employees and employers with the guaranteed time prior to the commencement of bargaining on a successor (to the contract being arbitrated) agreement when questions concerning representation could be timely raised. (footnotes omitted) (emphasis added)

Applying the foregoing law to this case, we find the WPPA election petition is untimely. The City's interest arbitration petition as to an expired collective bargaining agreement was pending at the time the WPPA petition was filed. Thus, under the case law summarized above, the interests in stability and labor peace are sufficient to require dismissal of the election petition.

Dated at the City of Madison, Wisconsin, this 10<sup>th</sup> day of August, 2010.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/

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Judith Neumann, Chair

Paul Gordon /s/

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Paul Gordon, Commissioner

Commissioner Susan J.M. Bauman did not participate.