

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
GRAFTON PROFESSIONAL POLICE ASSOCIATION

Involving Certain Employees of
VILLAGE OF GRAFTON

Case 46
No. 71502
ME-4657

Decision No. 33867

Appearances:

Scott A. Brinkman, President, Grafton Professional Police Association, 1981 Washington Street, Grafton, Wisconsin appearing on behalf of the Grafton Professional Police Association.

Benjamin M. Barth, Labor Consultant, N116 W16033 Main Street, Germantown, Wisconsin 53022 appearing on behalf of the Labor Association of Wisconsin.

Darrell Hofland, Village Administrator, 860 Badger Circle, Grafton, Wisconsin 53024 appearing on behalf of the Village of Grafton.

ORDER DISMISSING PETITION FOR ELECTION

On January 31, 2012, the Grafton Professional Police Association filed a petition with the Commission seeking an election to determine whether certain public safety employees of the Village of Grafton wish to be represented for the purposes of collective bargaining by the Association or to continue to be so represented by the Labor Association of Wisconsin/Grafton Police Officers Association. On March 12, 2012, the Labor Association filed a motion to dismiss the election petition as untimely because a petition for interest arbitration as to the public safety employees of the Village was pending at the time the election petition was filed. No response to the motion was filed and the record was closed March 28, 2012.

No. 33867

Having reviewed the record 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 24th day of May, 2012.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott /s/

James R. Scott, Chairman

Judith Neumann /s/

Judith Neumann, Commissioner

Rodney G. Pasch /s/

Rodney G. Pasch, Commissioner

VILLAGE OF GRAFTON

MEMORANDUM ACCOMPANYING ORDER
DISMISSING PETITION FOR ELECTION

The operative facts are undisputed. On January 31, 2012, the Grafton Professional Police Association filed a petition with the Commission seeking an election to determine whether certain public safety employees of the Village of Grafton wish to be represented for the purposes of collective bargaining by the Association or to continue to be so represented by the Labor Association of Wisconsin/Grafton Police Officers Association. On March 12, 2012, the Labor Association filed a motion to dismiss the election petition as untimely because a petition for interest arbitration as to the Village's public safety employees was pending at the time the election petition was filed

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 employes 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 election petition is untimely. The Labor Association's interest arbitration petition was pending at the time the election petition was filed. Thus, under the case law summarized above, the interests in stability and labor peace are sufficient to warrant dismissal of the election petition.

Dated at Madison, Wisconsin, this 24th day of May, 2012.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott /s/

James R. Scott, Chairman

Judith Neumann /s/

Judith Neumann, Commissioner

Rodney G. Pasch /s/

Rodney G. Pasch, Commissioner