5-16-74

State of Kansas

Before The
PUBLIC EMPLOYEE RELATIONS BOARD

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In The Matter Of: *
*
PETITION OF WICHITA MUNICIPAL EMPLOYEES * CASE NO. UDC 3-1974
ASSOCIATION FOR UNIT DETERMINATION AND *
CERTIFICATION OF CERTAIN WICHITA CITY *
EMPLOYEES *
* * * * * * * * * * * * * * * * * * * * *

Comes now on the 18th day of April, 1974 the above captioned matter for hearing before the Public Employee Relations Board.

The case comes before the Board upon petition of Wichita Municipal Employees Association for Unit Determination of an appropriate unit for municipal employees of the City of Wichita, Kansas under date of March 27, 1974.

Leave was granted to all parties to consider and offer statements, testimony and evidence relative to other plans for unit determination which would be more "appropriate" than that proposed by petitioner.

Appearances of parties were as follows:

Mr. Harry Helser, National Representative of AFL-CIO in behalf of Service Employees Union Local 513

Mr. Raymond Baker, Atty., in behalf of Wichita Municipal Employees Association

Mr. Bill Potter, Chairman, Wichita Municipal Employees Association

Mr. Frank Hylton, Atty., in behalf of Teamsters Union Local 795

Mr. John Dekker, City Atty. of Wichita, in behalf of Employer

Mr. Sam Williamson, City Personnel Director, in behalf of Employer

Statement of Case - Procedures Before the Board

1. Petition filed by Wichita Municipal Employees Association under date of March 27, 1974, praying for an appropriate unit for all public employees of the City of Wichita as defined by the Public Employer-Employee Relations Act. Number of employees to be approximately 1,200.

2. Answer to petition filed by City of Wichita dated April 2, 1974. Proposed unit of employees of City of Wichita excluding autonomous boards and joint city-county agencies as follows:

Board of Park Commissioners
Urban Renewal Agency
Library Board
Art Museum Board
Metropolitan Area Planning Commission
Wichita-Sedgwick County Dept. of Community Health

3. Counter petition for Unit Determination for certain public employees of the City of Wichita dated April 2, 1974 filed by Service Employees Union Local 513. Appropriate unit to consist of all service maintenance, clerical and professional employees. Number of employees to be approximately 1,255.

4. Amended petition dated April 8, 1974 filed by Wichita Municipal Employees Association proposing a unit of approximately 1,442 employees of the City of Wichita.

5. Answer filed April 12, 1974 by City of Wichita to Service Employees Union Local 513 petition for Unit Determination. Wichita proposes unit of public employees excluding autonomous boards and joint city-county agencies.

6. Amendment to answer to petition for Unit Determination and Certification dated April 17, 1974 filed by City of Wichita. Further exclusions were prayed for as follows:

Wichita-Valley Center Flood Control Project
City-County Sanitary Landfill

7. Counter petition for Unit Determination for certain public employees of the City of Wichita dated April 8, 1974 filed by Teamsters Union Local 795. Appropriate unit to consist of approximately 531 public employees of the City of Wichita engaged in service maintenance type activities. To exclude all other employees.

8. Answer filed April 12, 1974 by City of Wichita to Teamsters Union Local 795 petition for Unit Determination. City of Wichita alleges that splintering of work force would result from granting the petition as filed.

9. Notice of hearing sent certified mail to all parties on April 8, 1974.

10. Hearing on April 18, 1974 to determine the appropriate unit for public employees of the City of Wichita, Kansas. Evidence and testimony were taken from all parties. Parties were ordered to resolve conflict over supervisory and confidential employees to everyone's satisfaction or file motion for reconvening hearing at a later date.

11. Letters from parties dated April 29, 1974 requesting that the unit determination hearing be reconvened in Wichita, Kansas.

12. Motion filed April 29, 1974 by Wichita Municipal Employees Association requesting an extension of time for resolving objections to City of Wichita's list of supervisory and confidential employees.

13. Letter in support of motion for extension received April 30, 1974 under the signature of Frank Hylton, Atty. for Teamsters Union Local 795.

14. Letter received May 2, 1974 under signature of John Dekker, Director of Law, City of Wichita, in support of motion for extension of time.

15. Motion for extension of time for filing objections to City of Wichita's classification of supervisory and confidential employees granted by Chairman of the Board until May 8, 1974.

16. Notification to PERB of Wichita Municipal Employees Association's intention to withdraw petition for Unit Determination as of May 8, 1974.

17. Notification of agreement as to supervisory and confidential personnel between City of Wichita and Service Employees Union Local 513, received May 10, 1974 under signature of Harry D. Helser, AFL-CIO Representative.

18. Notification by telephone that Teamsters Union Local 795 had reached agreement with City of Wichita in the matter of supervisory and confidential personnel as of May 8, 1974. Teamsters did not intend to file objections.

The case calls into question the establishment of an "appropriate unit" as defined by the Act for public employees of the City of Wichita.

Three major issues immediately develop for consideration:

Question: Should employees of the Park Board, Urban Renewal Agency, Library Board and Art Museum Board be included as "appropriate" in a unit with other employees of the City of Wichita?

Question: Should employees of Metropolitan Planning Commission, Wichita-Sedgwick County Dept. of Community Health, Wichita-Valley Center Flood Control Project and City-County Sanitary Landfill be included as "appropriate" in a unit with other employees of the City of Wichita?

Question: Should "blue collar" workers be included in a unit with "clerical" workers?

## Findings Of Fact

1. Respondent City of Wichita is by definition of Public Employer-Employee Relations Act a public employer. Further, that the Wichita City Commission has elected to bring the employees under the provisions of said Act.

2. Budget funding for the Metropolitan Area Planning Commission, Wichita-Sedgwick County Dept. of Community Health, Wichita-Valley Center Flood Control Project and City-County Sanitary Landfill are joint ventures between the City of Wichita and Sedgwick County; therefore, the budget for each operation must meet the approval of the Wichita City Commission and the Sedgwick County Commission sitting en banc as the governing body.

3. While the City Manager of Wichita may be considered the appointing authority in most instances, the Board of Park Commissioners, Urban Renewal Agency, Library Board and Art Museum Board have been established as independent boards with all powers and authority to hire, fire, promote and approve conditions of employment for all staff members.

4. All employees of the City of Wichita are covered under a personnel merit system. This system sets out conditions of employment for all job titles administered to by the Wichita City Commission.

5. All supervisory and confidential employees are removed from the unit by mutual agreement of all parties.

Conclusion of Law and Rationale

KSA Supp. 75-4322 defines a "public employer" as: "... means every governmental subdivision, including any county, township, city, school district, special district, board, commission, or instrumentality or other similar unit whose governing body exercises similar governmental powers, and the state of Kansas and its state agencies. Therefore, it would seem that the aforementioned boards would be considered public employers since evidence and testimony was introduced to show that these boards can and do exercise powers to stipulate conditions of employment under which staff members must perform. It would be inappropriate to include employees of these boards in a meet and confer unit with other city employees when in effect the appointing authorities are not the same for all employees. While it has been shown that historically the conditions of employment for all city employees have been similar, the various boards could at any time choose to make changes in these conditions for staff members without the consent of the City Commission of Wichita.

Testimony was given to the effect that any budget funding for joint city-county ventures must meet the approval of the city and county commission sitting en banc. Therefore, it is inconceivable that the city, acting as bargaining agent, could bind the county to any agreement with employees.

It would follow that the county commission must be represented at the meet and confer sessions. Thus, the combination of city and county commission would be considered the public employer for the purposes of the Act. It would then be inappropriate to include employees of joint city-county ventures in a unit with employees under the sole jurisdiction of the city commission.

In considering the question of including "blue collar workers" in a unit with "clerical" employees, attention is called to the seven criterion as set forth in KSA Supp. 75-4327(e) as follows:

1. The principle of efficient administration of government;

2. The existence of a community of interest among employees;

3. The history and extent of employee organization;

4. Geographical location;

5. The effects of overfragmentation and the splintering of a work organization;

6. The provisions of KSA 1972 Supp. 75-4325; and

7. The recommendations of the parties involved.

No single criterion is more important than the others. Other criteria may be considered in addition to those enumerated.

Little evidence or testimony was given to show that the creation of one unit for all city employees would work a hardship upon those employees in the meet and confer process. In fact, quite the reverse is true. It would seem that a community of interest exists among all city employees in that a personnel policy referred to as the "personnel merit system" stipulates conditions of employment for all city job classifications. It is recognized that problems may arise which are unique to one class of employees; however, a system providing for a grievance procedure should provide the necessary tools for resolving conflicts unique to any classification of employees. It is the consensus of the Board that to split the work force of the city of Wichita would have the effect of splintering that work force to the extent that problems could arise in the event one unit was granted privileges not given other units. This would create morale problems which would have the effect of hindering the efficient administration of government. Historically all employees of the city of Wichita have been represented by a single organization in grievance resolution. This system evidently did not pose problems for the employed in that no real evidence or testimony was offered in support of a separation of employees into

two or more units. The Board further recognizes that little if any common bond exists between "blue collar" workers and "clerical" workers, sofar as departmental transfers or work intercourse is concerned. However, the Board does feel that clear lines of communication exist between these employees. It is imperative that working conditions be of a uniform nature for all personnel of a public employer.

## O R D E R

The Board finds that the appropriate unit for employees of the city of Wichita be defined as follows:

INCLUDE: All employees of the city of Wichita, as defined by the Act, who are not exempted as confidential and supervisory by the signed mutual agreement of all interested parties.

Approximately 1,000 employees.

EXCLUDE: Employees of:

Board of Park Commissioners
Urban Renewal Agency
Library Board
Art Museum Board
Metropolitan Area Planning Commission
Wichita-Sedgwick County Dept. of Community Health
Wichita-Valley Center Flood Control Project
City-County Sanitary Landfill

Excluding all boards, joint city-county employees, supervisory, confidential and professional employees as defined by the Act.

IT IS SO ORDERED BY THE PUBLIC EMPLOYEE RELATIONS BOARD

Alan Neelly, Member

William McCormick, Member

APPROVED:

Nathan Thatcher, Member

May 16, 1974