In the matter of
TOWN OF NEWTOWN

-and-
TEAMSTERS LOCAL 145

Case No. ME-11,177

APPEARANCES:
Donald F. Houston, Esq.
for the Town

Abel Ferreira, Secretary-Treasurer
for the Union

Decision No. 2705
January 30, 1989

On February 25, 1988, Teamsters Local 145 (the Union) filed with the Connecticut State Board of Labor Relations (the Labor Board) a representation petition seeking certification as the representative of "the employees of the Parks & Recreation Dept." of the Town of Newtown (the Town).

The Town objected to the petition on the grounds that a separate unit of Park Department employees is not appropriate because (1) Park Department employees share a substantial community of interest with the Highway Department employees who are already represented for purposes of collective bargaining by AFSCME; and (2) the Town is planning to consolidate the Highway Department and the Park Department into a newly constituted Public Works Department. The Town argued that a single unit including Highway Department and Park Department employees, represented by a single bargaining agent is the appropriate unit.

Thereafter, pursuant to an Order of Election dated April 13, 1988, an election by secret ballot was held on May 13, 1988, among the members of the claimed unit. The results of the election were as follows:

- Number of Ballots Cast: 5
- Number of Ballots Counted: 5
- Number of Votes IN FAVOR of representation by Teamsters, Local 145: 5
- Number of Votes NOT IN FAVOR of representation by Teamsters, Local 145: 0
On June 27, 1988, a hearing was held before the Board on the Town’s objections to the appropriateness of the unit. The parties appeared, were represented, and were fully heard. Both parties filed written briefs, the last of which was received by the Board on August 16, 1988.

'The Hearing

At the hearing, the evidence showed that the claimed unit consists of five employees of the Park and Recreation Department. These five employees are classified as Maintainer I and Maintainer II. Their job duties include cutting grass on park grounds, educational facilities, and ball fields. They also do maintenance and some construction work at the park and recreation facilities, sometimes including drainage work. They drive pick-up trucks and use tractors, shovels and rakes in the course of their work. None of the Park Department employees has a Class 2 license nor do they drive the type of heavy trucks and equipment which require Class 2 licenses. These employees have never been included in any collective bargaining unit, nor has any other employee organization filed a petition to represent them.

The Town also has a Highway Department, which has twenty-seven, employees who are members of a collective bargaining unit represented by a local of AFSCME. Those employees work on the roads, building and maintaining roads, clearing them of snow, and doing other construction projects in the Town. These employees drive large trucks and heavy equipment and at least some of them have Class 2 licenses. Sometimes the highway department employees work in areas where parks maintainers also work as when the highway department workers clear snow from Board of Education parking lots, while parks department workers are responsible for maintaining the grounds of Board of Education buildings. The highway department workers are rebuilding a boat ramp which parks department workers will be responsible for maintaining. There was no evidence that highway department workers and parks department workers worked together on any of these projects.

The parks department workers report to work and work out of a maintenance garage. They report to the director of parks, who reports to the Commissioner of Parks and Recreation. The highway department employees work out of a different garage, six or seven miles from the parks garage; and they report to the Superintendent of Highways, who reports to the First Selectman.

The First Selectman testified that there is a proposal to include the highway department, the parks department, and some other functions of the Town into one department, variously referred to as a Department of Public Works and Department of Highways and Buildings Maintenance. This new department has been authorized by a change in the Town charter but has not been implemented. There is both political support and opposition to the plan within the Town. Some preliminary steps have been taken to implement the plan, including the establishment of a separate water pollution control department which could become part of the new department and the separation of the landfill operation from the highway department.
Discussion

The Town's objections to the unit petitioned for are two related issues. The Town argues that a community of interest is shared between the highway workers and the parks workers, making a separate unit of parks employees inappropriate. Additionally, the Town argues that establishing a separate unit of parks workers will cause unnecessary fragmentation of bargaining units and create difficulties for the Town, especially if all the workers are in one new department.

The Board, when faced with a petition such as the one before us, is guided by the language of Section 7-471, subsection (3) of the Act, which directs that

"The Board shall decide in each case whether, in order to insure to employees the fullest freedom in exercising the rights guaranteed by sections 7-467 to 7-477, inclusive, and in order to insure a clear and identifiable community of interest among employees concerned, the unit appropriate for purposes of collective bargaining shall be the municipal employer unit or any other unit thereof..."

We have long held that a primary policy of the MERA is that employees should be free to be represented by organizations and in bargaining units of their own choosing. 7 C.G.S. 471(3); 7 C.G.S. 468; City of Bridgeport, Dec. No. 1440 (1976), aff'd in Council #4, AFSCME, AFL-CIO v. Connecticut State Board of Labor Relations, Dk. No. 114261 Superior Court, Fairfield County (Feb. 14, 1980); East Windsor, Dec. No. 1208 (1974); Griffin Hospital, Dec. No. 1198 (1974). We have, therefore, held that the unit petitioned for need not be the most appropriate unit, but merely an appropriate unit. City of Danbury, Dec. No. 1848 (1970); Norwalk Board of Education, Dec. No. 1559 (1977); Town of Cheshire, Dec. No. 1483 (1977); Town of South Windsor, Dec. No. 901 (1969); Town of South Windsor, Dec. No. 866 (1969). In Wethersfield Board of Education, Dec. No. 1090 (1972), we stated: "[E]xcept where the Statute imposes specific requirements... we have always believed that our guest is not for the most-appropriate unit but rather to determine whether the unit sought in each petition before us is an appropriate unit." Id. Where two units might both be appropriate, the choice of the majority of employees will control. Town of South Windsor, supra; Norwalk Board of Education, supra. In such cases, the "most meaningful community of interest" is the one which acknowledges the wishes of the employees.

In City of Danbury, Dec. No. 1848 (1980), we addressed issues similar to those raised in the present case. In that case, a group of summer lifeguards wished to be represented by a union. The City argued, as here, that the group which was the subject of the petition was part of a larger group and should be one unit with that larger group. In that case, we held, referring to a unit composed of all summer recreational employees,

"Such a unit would probably be an appropriate one but this fact does not mean that such a broad unit is the only appropriate one. The similarity of work and of term of employment of the lifeguards; the fact that they work..."
at sites (beach areas) which are separate from the locations of other jobs; the fact that lifeguards are often recruited from the students' swimming teams, all combine to lend a community of interest to the lifeguards that warrants them treatment as an appropriate unit on an objective basis. And where that is the case we have consistently held that the employees' desire to be in a separate unit will be given effect and that the extent of a union's petition warrants an inference that it measures the extent of the desire to be associated together as a unit. Stamford Board of Education, Dec. No. 915; Wethersfield Board of Education, Dec. No. 1090; City of Bridgeport, Dec. No. 1440. We find then that the unit sought by the Union here is an appropriate bargaining unit.

In the present case, a community of interest has been shown among the parks department employees who are the subject of the petition. The employees share the same duties, skills and education. They share common supervision, common benefits and holidays, common place of work. While some of these aspects of their working life are also shared with the highway department workers, such as hours of work and holidays, some are not shared. Whether or not there exists a shared community of interest among highway and parks department workers, it is clear that the parks department workers do share a community of interest. As we explained in Town of Old Lyme, Dec. No. 2024-A (1981),

We have always required the presence of a community of interest based upon objective considerations, but we have never made that the sole determinant of what makes a bargaining unit appropriate. Instead we have consistently seen this as a kind of starting point or first step in the analysis to determine whether a requested bargaining unit is an appropriate unit. The Act speaks in terms of an appropriate unit and as we have often held, objective community of interest considerations may justify several possible shapes for a unit. The second and an important step in determining the appropriateness of a claimed unit entails determining and effectuating the employees' own desires on the representation issue. Otherwise stated, we give great weight to the employees' desires for self-determination as evidenced by the unit described and claimed in the petition. When several possible shapes for a unit are justified by objective community of interest factors, we will permit the unit which effectuates the desires of the employees. Wethersfield Board of Education, Dec. No. 1090 (1972); Griffin Hospital, Dec. No. 1198 (1973); City of Danbury, Dec. No. 1848 (1980); Stamford Board of Education, Dec. No. 915 (1970).

In the present case, the parks department employees, through their petition have chosen to be represented in a separate bargaining unit. In light of their objective community of interest and their subjective choice
to constitute a separate unit, it is clear that the unit described in the petition constitutes an appropriate unit.

The Town argues that if the parks department and highway department workers are combined into one Public Works Department, the existence of a separate unit of parks department workers will produce overfragmentation of units and unduly hamper the employer's ability to bargain collectively. This argument presupposes a state of the facts which does not exist. We decline to base our decision on a speculative situation. The proposed Public Works Department may take many shapes, even if it is implemented. The evidence presented at the hearing did not convince us that there is any problem of overfragmentation presented by this petition which could defeat the community of interest of the employees.

Certification of Representative

By virtue of and pursuant to the power vested in the Connecticut State Board of Labor Relations by Section 7-471 of the Municipal Employee Relations Act, it is hereby CERTIFIED, that Teamsters Local 145 has been designated as the representative for the purposes of collective bargaining in a unit consisting of the employees of the Park and Recreation Department of the Town of Newtown, and that said Teamsters Local 145 is the exclusive representative of all employees in said unit for the purposes of collective bargaining with respect to wages, hours and other conditions of employment.

CONNECTICUT STATE BOARD OF LABOR RELATIONS

By /s/ Patricia V. Low
Patricia V. Low, Chairman

/s/ Craig Shea
Craig Shea

/s/ Ann M. McCormack
Ann M. McCormack