

City of Elma, Decision 10641 (PECB, 2010)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

OLYMPIC MOUNTAIN FRATERNAL
ORDER OF POLICE, LODGE 23

Involving certain employees of:

CITY OF ELMA

CASE 22909-E-09-3516

DECISION 10641 - PECB

ORDER AMENDING
CERTIFICATION

Josh Wheeler, Union President, for the petitioner, Olympic Mountain Fraternal Order of Police, Lodge 23.

David Osgood, Mayor, for the employer.

Richard Fletcher, Union President, for the incumbent union, Twin Harbors Fraternal Order of Police, Lodge 13.

On December 14, 2009, the Olympic Mountain Fraternal Order of Police, Lodge 23 (FOP, Lodge 23) filed a petition with the Public Employment Relations Commission, seeking amendment of the certification issued by the Commission for a bargaining unit of police officers employed by the City of Elma due to a vote by its members to merge Twin Harbors Fraternal Order of Police, Lodge 13 (FOP, Lodge 13) into FOP, Lodge 23. In a letter issued on December 16, 2009, the Commission's Representation Coordinator invited the employer to respond to the request made by FOP, Lodge 23. To date, there has been no response.

The Executive Director has reviewed this matter, and concludes that the request for an amended certification of FOP, Lodge 23 should be granted.

ISSUE

The sole issue to be determined in this case is whether the bargaining rights should be transferred where a majority of employees voted to merge FOP, Lodge 13 into FOP, Lodge 23 pursuant to an internal union election.

APPLICABLE LEGAL PRINCIPALS

The parties to this case are covered under the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW. The resolution of questions concerning representation under that statute is a function delegated by the Legislature to the Public Employment Relations Commission. RCW 41.56.050 provides:

In the event that a public employer and public employees are in disagreement as to the selection of a bargaining representative, the Commission shall be invited to intervene as is provided in RCW 41.56.060 through 41.56.090.

Voluntary recognition is available under Chapter 41.56 RCW (by reverse implication from RCW 41.56.050, permitting the parties to deal with matters themselves if there is no dispute), *Skagit Valley Hospital*, Decision 2509-A (PECB, 1986), *aff'd*, *Skagit Valley Hospital v. PERC*, 44 Wn. App. 348 (1989), stand for the proposition that bargaining rights may be transferred by means of internal union affairs transactions in which "due process" and "continuity" concerns are satisfied.

In an order issued by the Commission on December 11, 2007 as *City of Elma*, Decision 9922 (PECB, 2007), Twin Harbor Fraternal Order of Police, Lodge 13 was certified as exclusive bargaining representative of a bargaining unit described as:

All full-time and regular part-time police officers employed by the City of Elma Police Department, excluding supervisors, confidential employees and all other employees.

In the absence of any objection from the employer, and the Commission's responsibility to maintain accurate records, the Executive Director concludes that the requested amendment of the previously-issued certification should be granted.

CONCLUSION

Based on the information provided by the petitioner, and in the absence of any objection from the employer, the request for an amended certification is granted.

ORDERED

The Olympic Mountain Fraternal Order of Police, Lodge 23 is substituted for the Twin Harbors Fraternal Order of Police, Lodge 13 as exclusive bargaining representative of police officers employed by the City of Elma.

Issued at Olympia, Washington, on this 11th day of January, 2009.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



CATHLEEN CALLAHAN, Executive Director

This order may be appealed by filing timely objections with the Commission under WAC 391-25-660.