
In the Matter of TOWN OF STURBRIDGE
and
PROFESSIONAL FIRE FIGHTERS OF THE STURBRIDGE
FIRE DEPARTMENT

Case No. MCR-02-4998

34.1	<i>appropriate unit</i>
34.2	<i>community of interest</i>
34.5	<i>established practice (history)</i>
34.8	<i>similarity of work (interchangeability)</i>
34.91	<i>accretion</i>
35.11	<i>regular part-time employees</i>
34.81	<i>firefighters</i>
93.3	<i>petition for certification</i>

February 27, 2003

Helen A. Moreschi, Chairwoman

Peter G. Torkildsen, Commissioner

Theresa M. Dowdy, Esq. *Representing the Town of
Sturbridge*

Edward G. Bourassa *Representing the Professional
Fire Fighters of the Sturbridge
Fire Department*

DECISION AND DIRECTION OF ELECTION¹

STATEMENT OF THE CASE

On September 23, 2002, the Professional Fire Fighters of the Sturbridge Fire Department (Union) filed a petition with the Labor Relations Commission (Commission) under Section 4 of M.G.L. c. 150E (the Law) seeking to represent certain fire fighters/EMTs employed by the Town of Sturbridge (Town) in its fire department. On December 9, 2002, a duly designated Commission hearing officer, Ann T. Moriarty, Esq., conducted a hearing during which both parties had an opportunity to be heard, to examine witnesses, and to introduce evidence. Both parties made oral arguments in support of their respective positions during the hearing.

The Union seeks to represent all full-time permanent fire fighters/EMTs below the rank of fire chief, excluding all part-time fire fighters/EMTs, and further excluding all managerial, confidential and casual employees, and all other employees of the Town. If the Commission determines that the petitioned-for bargaining unit is inappropriate, the Union requests that the Commission determine the appropriate bargaining unit that would include the full-time fire fighters/EMTs.

The Town seeks to include in the petitioned-for bargaining unit all regular part-time fire fighters/EMTs below the rank of fire chief whose total hours of work, including tour-of-duty hours, fire, am-

¹ Pursuant to 456 CMR 13.02(1), the Commission has designated this case as one in which the Commission shall issue a decision in the first instance.

balance, rescue, and standby calls, and drill and coverage hours equals 25% or more, or a percentage determined by the Commission, of the average total hours worked by the full-time fire fighters/EMTs. Notwithstanding this criterion, the Town seeks to include in the bargaining unit the part-time captain, whose current work schedule may not fall within the definition of regular part-time, but who has served the Town as a regular part-time fire fighter for over forty-eight (48) years. The issue to be decided by the Commission is whether the part-time fire fighters/EMTs are regular part-time employees and, if so, whether they share a community of interest with the full-time fire fighters/EMTs.

FINDINGS OF FACT²

The Town and the Union stipulated to certain facts on the record, and also provided the Commission with a statement of undisputed facts and exhibits. These findings include those stipulations, the statement of undisputed facts, and some brief testimonial evidence.

1. The Town of Sturbridge (Town) is a public employer within the meaning of Section 1 of M.G.L. c. 150E.

2. The Professional Fire Fighters of the Sturbridge Fire Department is an employee organization within the meaning of Section 1 of M.G.L. C. 150E.

3. The Town's fire department is comprised of the following personnel:

Full-Time: Seven (7) full-time personnel, including five (5) fire fighters/EMTs, one (1) captain/EMT, and the fire chief.

Part-Time: Fifteen (15) part-time personnel (also referred to as "call" fire fighters/EMTs)³, including eleven (11) part-time fire fighters/EMTs, one (1) part-time fire fighter, two (2) lieutenants/EMTs, one (1) captain/EMT, and one (1) part-time secretary.

4. There are three (3) engine companies with seven (7) fire fighters/EMTs each. Engine companies are supervised by part-time fire fighters/EMTs (Captain/Lieutenant). Engine companies respond to emergency calls through the dispatch system. During the day a general alarm tone is used, while after 5:00 p.m., each engine company's individual tone is sounded. Engine company toning is done on an equalized basis, with two assigned nights each with the remaining night covered by the engine company that has the least amount of time in a given period.

5. The employment requirements for prospective full-time fire fighters/EMTs are as follows. The applicant must be at least 18 years old, have a high school diploma (or G.E.D.); or have one (1)-two (2) years related experience and/or training; or equivalent combination of education and experience. The applicant must be a Massachusetts Certified Emergency Medical Technician (EMT) and have an active Massachusetts driver's license. The candidate must also pass a physical examination including a chest x-ray and

EKG. Once appointed, the full-time fire fighter/EMT must attend and graduate from the Massachusetts Fire Fighting Academy as a fire fighter I/II and maintain certification as an EMT, CPR, Defibrillator Certification and Massachusetts Trouser Certification. Full-time fire fighters/EMTs should attend the department's three (3)-hour training drill every month. There is no disciplinary action taken if a full-time fire fighter/EMT does not attend the department's three (3) hour training drill each month. Other courses offered by outside agencies are optional, but full-time fire fighters/EMTs are encouraged to maintain and upgrade their skills. Full-time fire fighters/EMTs are eligible for tuition reimbursement for college courses.

6. The employment requirements for part-time fire fighters/EMTs are as follows. The applicant must be at least 18 years old, have a high school diploma (or G.E.D.); or have one (1) - two (2) years related experience and/or training; or equivalent combination of education and experience. The applicant must be a Massachusetts Certified Emergency Medical Technician (EMT) and have an active Massachusetts driver's license. The candidate must also pass a physical examination including chest x-ray and EKG. Once appointed, the part-time fire fighter/EMT must attend and graduate the District 7 Recruit Training Program and maintain certification as an EMT, CPR, Defibrillator Certification and Massachusetts Trouser Certification. There is one (1) part-time fire fighter that is not an EMT. Part-time fire fighters/EMTs should attend the department's three (3) hour training drill every month. There is no disciplinary action taken if a part-time fire fighter/EMT does not attend the department's three (3) hour training drill each month. Other courses are offered by outside agencies are optional, but part-time fire fighters/EMTs are encouraged to maintain and upgrade their skills.

7. The current hiring practice is that the supervisors in the fire department review applications and make a recommendation on the top candidates for interviews. The fire chief, town administrator, and fire department liaison from the Town's Board of Selectmen then conduct interviews of the finalists (the fire chief may pare down the number of interviewees prior to the interview). The town administrator is the appointing authority with the confirmation of the Board of Selectmen. This process is the same for full-time and part-time fire fighters.

8. Part-time fire fighters are subject to the same rules and regulations adopted by the Town's Board of Selectmen as the full-time fire fighters.

9. Part-time fire fighters perform the same duties as the full-time fire fighters. The published position descriptions for the full-time and part-time fire fighters/EMTs are identical except for the training requirements that are described in paragraph 5, above. The published position descriptions are a fair and accurate description of the job duties and responsibilities of the incumbents of the positions.

2. The Commission's jurisdiction is uncontested.

3. Part-time fire fighters are also referred to as "call" fire fighters. The term part-time fire fighters shall be used throughout this Decision and Direction of Election.

10. All full-time and part-time fire fighters/EMTs below the rank of fire chief respond to fires, medical emergencies, and other emergency situations to administer life support care to sick and injured persons and to protect life and property. In addition to performing these duties, the full-time and part-time fire fighters/EMTs holding the rank of captain and lieutenant supervise and coordinate the emergency and non-emergency activities of a fire station on an assigned shift.

11. A summary of the work schedules for full-time and part-time fire fighters/EMTs below the rank of fire chief, covering the period October 1, 2001 through September 30, 2002, is attached as Appendix A. This summary indicates the following:

That full-time fire fighters were scheduled for 13,540 regular tour-of-duty hours, and part-time fire fighters were scheduled for 4,567 regular tour-of-duty hours (33.7%).

That full-time fire fighters responded to calls, including fire, rescue, ambulance and standby calls, for a total of 787.25 hours, and part-time fire fighters responded to calls, including fire, rescue, ambulance and standby calls, for a total of 1,293.25 hours (164%).

That the average full-time fire fighter attended 32.58 hours of drills and the average part-time fire fighter attended 31.54 hours of drills.

12. Based on the information provided in Appendix A, the total number of compensated hours, including tour-of-duty hours, fire, ambulance, rescue and standby calls, holiday, vacation, and sick leave, and drill and coverage hours, for all full-time and part-time fire fighters/EMTs below the rank of fire chief for the one (1) year period October 1, 2001 through September 20, 2002 is as follows:

Full-Time Fire Fighters/EMTs	Total Compensated Hours
Captain Edward Bourassa	2,792.75
Private Alan Brackett	2,782.75
Private John Marinelli	2,920.75
Private David Peterkin	2,668.95
Private Matthew Roderick	2,795.75
Private Robert Wright	2,508.00
Part-Time Fire Fighters/EMTs	Total Compensated Hours
Captain Vernon Jackson	326.00
Lieutenant John Roderick	768.75
Lieutenant Ronald Woolhouse	1,486.25
Private Edward Chamberland	361.75
Private Russell Chamberland	857.00
Private Thomas Chamberland	159.50
Private William Chamberland	333.50

Private Gordon Holsturn	527.00
Private Robert Moynagh	513.25
Private Joseph Overy	196.00
Private Paul Roy	366.50
Private Brian Towns	499.00

13. If a full-time or part-time fire fighter/EMT is scheduled to work, whether a regular shift or for shift coverage, and they fail to show up without a valid excuse, they may be disciplined. Vacant shifts are filled using a rotating list of both full-time and part-time fire fighters/EMTs. If a tone goes out for fire fighters/EMTs (both full-time and part-time) that are not working a shift, neither the full-time fire fighter or the part-time fire fighter is required to respond to the tone. Engine companies consist of both full-time fire fighters/EMTs and part-time fire fighters/EMTs. There is no disciplinary action taken against a full-time or part-time fire fighter who is off duty and does not respond to a tone.

14. The six (6) full-time fire fighters/EMTs, including the captain, cover the weekday shifts occurring between Sunday at 5:00 P.M. until 9:00 A.M. Saturday morning. There are two (2) full-time fire fighters/EMTs on duty during this period. The six (6) full-time fire fighters/EMTs work either a 45 hour work week or a 46 hour work week. The full-time fire fighters/EMTs perform routine equipment maintenance, inspections and housekeeping responsibilities. When full-time fire fighters/EMTs are on leave, their shifts are filled on a rotating basis by other full-time and part-time fire fighters/EMTs. If a full-time fire fighter/EMT wishes to trade-off shifts, he or she is required to request advance permission from the fire chief. The full-time fire fighters/EMTs are entitled to vacation time, sick leave, injured-on-duty-leave, bereavement leave, health insurance, overtime, holiday pay and tuition reimbursement. Full-time fire fighters/EMTs are paid on a merit based system.

15. The average years of experience for a full-time fire fighter/EMT is 16.9 years, including time they may have spent as a part-time fire fighter/EMT. Below is a list of all the full-time fire fighters/EMTs below the rank of fire chief showing their respective date of hire as a fire fighter for the Town.

Name	Hire Date	Years of Service
Bourassa, Edward (Captain)	01/01/1972 ^a	30.9
Brackett, Alan	11/07/1983	19.0
Marinelli, John	07/18/1982 ^b	20.4
Peterkin, David	10/01/1993 ^a	9.1
Roderick, Matthew	08/04/1997 ^c	5.3
Wright, Robert	07/01/1986 ^a	16.4

4. The Town appointed Edward Bourassa a full-time fire fighter in January 1978. From January 1, 1972 until January 1978, Bourassa was a Town part-time fire fighter.

5. The Town appointed John Marinelli (Marinelli) a full-time fire fighter in July 1993. From July 18, 1982 until July 1993, Marinelli was a Town part-time fire fighter.

6. The Town appointed David Peterkin (Peterkin) a full-time fire fighter in September 2001. From October 1, 1993 until September 2001, Peterkin was a Town part-time fire fighter.

7. The Town appointed Matthew Roderick (M. Roderick) a full-time fire fighter in September 2001. From August 4, 1997 until September 2001, M. Roderick was a Town part-time fire fighter.

8. Before the Town appointed Robert Wright (Wright) a full-time fire fighter in July 1986, Wright was a Town part-time fire fighter.

16. Part-time fire fighters/EMTs work during the week when they are toned for an alarm or to fill shifts for a full-time fire fighter/EMT. Part-time fire fighters/EMTs cover weekend shifts occurring between Saturday at 9:00 a.m. until 5:00 P.M. Sunday evening. Part-time fire fighters/EMTs are entitled to the following benefits: overtime, injured-on-duty leave and training reimbursement. The average years of experience for all part-time fire fighters/EMTs is 21.8 years. About 90% of the part-time or call fire fighters have served the Town for more than ten (10) years. Below is a list of all the part-time fire fighters/EMTs below the rank of fire chief showing their respective date of hire as a fire fighter for the Town.

Name	Hire Date	Years of Service
Jackson, Vernon (Captain)	01/01/1954	48.9
Roderick, John (Lieutenant)	01/01/1979	23.6
Woolhouse, Ronald (Lieutenant)	01/01/1965	37.9
Chamberland, Edward	02/01/1979	23.8
Chamberland, Russell	09/01/1977	25.2
Chamberland, Thomas	01/01/1970	32.9
Chamberland, William	08/07/1986	16.3
Coburn, Richard	01/01/1982	20.9
Holstrom, Gordon	01/14/1989	13.9
Moynagh, Robert	08/04/1997	5.3
Overy, Joseph	08/04/1997	5.3
Roy, Paul	09/01/1986	16.2
St Pierre, Charles	02/01/1985	17.8
Towns, Brian	08/01/1985	17.3

17. Part-time fire fighters have provided coverage for fire calls for the past 25 years. They respond directly to the scene of a fire when an alarm is sounded. Although the part-time fire fighters wear electronic paging devices, they have other occupations and many are unavailable during the day to answer fire alarms. Not all part-time fire fighters respond to every alarm, and no part-time fire fighter has ever been disciplined for not responding to an alarm. Similarly, no full-time fire fighter has ever been disciplined for not responding to an alarm. During the day, when an alarm is toned to all fourteen (14) call fire fighters, on average, from zero (0) to six (6) part-time fire fighters respond.

18. Part-time fire fighters have provided weekend coverage at the fire station for the past twenty-three (23) years. Two (2) part-time fire fighters are always assigned to work the weekend shifts, but may trade-off shifts without the fire chief's permission. Each week, two (2) part-time fire fighters work the Saturday shift (9:00 A.M. on Saturday to 9:00 A.M. on Sunday), and two part-time fire fighters work the Sunday shift (9:00 A.M. to 5:00 P.M.) Part-time fire fighters must be EMT certified to work the weekend shifts. Part-time fire fighters are assigned on a rotating basis to work the weekend shifts. This rotating basis includes all the part-time firefighters below the rank of chief, except for the current part-time captain.

19. Lieutenant Ronald Woolhouse (Woolhouse), a part-time fire fighter, is regularly assigned to work twenty-five (25) hours each week to perform fire inspections. The fire inspection duties per-

formed by Woolhouse have been performed historically by a uniformed member of the Town's fire fighting force.

20. During the week and on weekends, if the on-duty fire fighters/EMTs are out of the fire station responding to a call, the Town calls in fire fighters/EMTs to standby in the event another call comes in for assistance. To call-in fire fighters/EMTs for this standby work, the Town uses a rotating list of both full-time and part-time fire fighters/EMTs.

21. Since 1992, the number of part-time fire fighters employed by the Town has decreased.

21. Below is the hourly pay rate for all full-time (FT) and part-time (PT) fire fighters/EMTs below the rank of fire chief employed by the Town.

Name (FT or PT)	Pay Rate
Captain Edward Bourassa (FT)	\$22.51
Captain Vernon Jackson (PT)	\$19.33
Lieutenant John Roderick (PT)	\$18.26
Lieutenant Ronald Woolhouse (PT)	\$18.26
Private Alan Brackett (FT)	\$16.88
Private John Marinelli (FT)	\$16.88
Private Robert Wright (FT)	\$16.88
Private David Petelin (FT)	\$14.92
Private Matthew Roderick (FT)	\$14.92
Private Paul Roy (PT)	\$14.22
Private Brian Towns (PT)	\$14.22
Private Edward Chamberland (PT)	\$14.22
Private Russell Chamberland (PT)	\$14.22
Private Thomas Chamberland (PT)	\$14.22
Private William Chamberland (PT)	\$14.22
Private Richard Coburn (PT)	\$14.22
Private Gordon Holstrom (PT)	\$14.22
Private Robert Moynagh (PT)	\$13.77
Private Joseph Overy (PT)	\$13.77
Private Charles St. Pierre (PT)	\$13.47

OPINION

The issue presented for decision is whether the petitioned-for bargaining unit of all full-time permanent fire fighters/EMTs below the rank of fire chief, excluding all part-time fire fighters/EMTs, and further excluding all managerial, confidential, and casual employees, and all other employees of the Town is an appropriate bargaining unit within the meaning of the Law. For the reasons stated below, we conclude that the petitioned-for bargaining unit is inappropriate because it excludes all regular part-time fire fighters/EMTs who share a community of interest with the full-time fire fighters/EMTs.

Appropriate Bargaining Unit

Section 3 of the Law requires the Commission to determine appropriate bargaining units consistent with the fundamental purpose of providing for stable and continuing labor relations, while giving due regard to the following tripartite statutory criteria: 1) community of interest; 2) efficiency of operations and effective dealings; and, 3) safeguarding the rights of employees to effective representation. To determine whether employees share a community of interest, the Commission considers factors like similarity of skills and functions, similarity of pay and working conditions, common

supervision, work contact and similarity of training and experience. *Town of Bolton*, 25 MLC 62, 65 (1998), citing, *Boston School Committee*, 12 MLC 1175, 1196 (1985) (citations omitted). No single factor is outcome determinative. *City of Worcester*, 5 MLC 1108, 1111 (1978).

Under the second and third statutory criteria, the Commission considers the impact of the proposed bargaining unit structure upon the employer's ability to effectively and efficiently deliver public services, while safeguarding the rights of employees to effective representation. The Commission complies with these directives by placing employees with common interests in the same bargaining unit, thus avoiding the proliferation of units that place an unnecessary burden on the employer, while maximizing the collective strength of employees in the bargaining relationship. *City of Springfield*, 24 MLC 50, 54 (1998), citing, *Mass. Board of Regional Community Colleges*, 1 MLC 1426, 1440 (1975)

The Commission has broad discretion in determining appropriate bargaining units. If a petition describes an appropriate unit, the Commission will not reject it because it is not the most appropriate unit, or because there is an alternative unit that is more appropriate. *City of Somerville*, 24 MLC 69, 71 (1998); *City of Boston*, 18 MLC 1036, 1043 (1991), citing, *Lynn Hospital*, 1 MLC 1046, 1050 (1974). Here, however, the petitioned-for bargaining unit must be rejected because it conflicts with the Commission's well-established policy of including all regular part-time employees in the same bargaining unit as full-time employees with whom they share a community of interest. See, *Town of Grafton*, 28 MLC 399, 400 (2002), and cases cited therein. See also, *Town of Ipswich*, 23 MLC 209 (1997) (Affirming Commission's policy of rejecting a dual unit structure, consisting of one unit of part-time employees and one unit of full-time employees, where both units performed similar functions under similar working conditions).

Previously, in *Town of Sturbridge*, 18 MLC 1416 (1992), the Commission decided that the appropriate bargaining unit of Town fire fighters included all full-time and regular part-time fire fighters,⁹ including the part-time captain and the part-time lieutenants, but excluding the part-time fire-fighters because their sporadic and variable hours made them too casual to share the requisite community of interest with the full-time fire fighters. *Id.* at 1420-1422. Over the past decade, the Town has increased its full-time fire fighting force by seventy-five percent (75%) from four (4) full-time employees, including the fire chief, one (1) captain, and two (2) fire fighters, to seven (7) full-time personnel, including the fire chief, one (1) captain/EMT, and five (5) fire fighters/EMTs. Further, over the same time period, the part-time complement has decreased by about fifty-five percent (55%) from thirty-four (34) part-time fire fighters, including one (1) captain, three (3) lieutenants, and thirty (30) fire fighters, to fifteen (15) part-time personnel, including one (1) captain, two (2) lieutenants/EMTs, eleven (11) part-time fire fighters/EMTs and one (1) part-time fire fighter. Moreover, over the past decade, there have

been other substantial changes in the Town's fire department, like the composition of the weekend shift complement, that require the Commission to re-examine its prior unit determination.

The parties do not dispute that all full-time fire fighters/EMTs below the rank of fire chief share a community of interest. Further, neither party asserts, nor is there any evidence that the full-time captain and the part-time captain and lieutenants exercise supervisory authority such that their inclusion in a bargaining unit of non-ranking fire fighters/EMTs would create a conflict of interest. However, the parties do dispute whether the part-time fire fighters/EMTs should be included in a bargaining unit of full-time fire fighters/EMTs. The Union seeks to exclude these employees. The Town seeks to include in any bargaining unit found appropriate all regular part-time fire fighters/EMTs below the rank of fire chief whose total hours of work, including tour-of-duty hours, fire, ambulance, rescue, and standby calls, and drill and coverage hours equals 25% or more, or a percentage determined by the Commission, of the average total hours worked by the full-time fire fighters/EMTs.

The Commission uses a two-step analysis to resolve the parties' dispute. First, the Commission determines whether the employees are casual and, therefore, are not accorded collective bargaining rights. If the Commission determines that the employees are not casual, but regular part-time employees, the Commission then determines if they share a sufficient community of interest with other bargaining unit members to warrant their inclusion in the unit. *Worcester County*, 17 MLC 1352, 1358 (1990).

Regular Part-Time Fire Fighters/EMTs

The Commission has consistently held that employees other than regular full-time employees are entitled to coverage under the Law. *City of Malden*, 28 MLC 130, 134 (2001); *Boston School Committee*, 7 MLC 1947, 1949 (1981) (additional citations omitted). Further, the existence of rights under the Law is not conditioned on an arbitrary number of hours worked. *Town of Dartmouth*, 22 MLC 1618, 1622 (1996), citing, *Town of Leicester*, 9 MLC 1014, 1018 (1982); *Town of Saugus*, 4 MLC 1361, 1362 (1977). Rather, the Commission examines factors like continuity of employment, regularity of work, the relationship of the work performed to the needs of the employer, and the amount of work performed by the employees in determining whether a part-time employee's relationship to their employer is too casual to warrant their inclusion in a bargaining unit. See, *Town of Wenham*, 22 MLC 1237, 1244-1245 (1995), *aff'd*, *Town of Wenham v. Labor Relations Commission*, 44 Mass. App. Ct. 195 (1998), and cases cited therein. No one factor is dispositive. *Worcester County*, 17 MLC at 1358.

Applying this analysis on a case-by-case basis, the Commission has accorded collective bargaining rights to part-time employees who work infrequently, but regularly, and included them in a bargaining unit of full-time employees with whom they shared a com-

9. Pursuant to this decision, the Commission conducted a secret ballot election. A majority of the eligible voters elected to remain unrepresented for the purposes of collective bargaining.

munity of interest. Generally, the number of hours a part-time employee must work to be treated as a regular, part-time employee varies from industry to industry, and from workplace to workplace. *Town of Millville*, 11 MLC 1642, 1644 (1985). For example, the Commission has extended collective bargaining rights to clerks who attend and compile the official record of one monthly municipal board meeting, *City of Malden*, 28 MLC at 134-135; dispatchers who work one eight (8) hour shift every twelve (12) days; *Town of Dartmouth*, 22 MLC at 1622-1623; reserve police officers who work an average of two (2) or more shifts per month, *Town of Newbury*, 13 MLC 1676, 1680-1681 (H.O. 1987), *aff'd*, 14 MLC 1660, 1662 (1988); substitute teachers who work sixty (60) days or more during the course of a school year, *Boston School Committee*, 7 MLC 1947 (1981); police patrol officers who work between eight (8) and twenty (20) hours each week, *Town of Sterling*, 4 MLC 1473, 1475-1476 (H.O. 1977), *aff'd*, 4 MLC 1704 (1978); library pages who work nine (9), ten (10), fourteen (14), and sixteen (16) hours per week, *City of Woburn*, 22 MLC 1073, 1076-1077 (1995); *Town of Milford*, 22 MLC 1624, 1630 (1996); *Town of Braintree*, 5 MLC 1133, 1136 (1978); *City of Quincy Library Department*, 3 MLC 1327, 1329 (1976); and, matrons who work one and one-half days per week, *County of Plymouth*, 2 MLC 1106 (1979).

Here, the record establishes that part-time fire fighters have provided weekend coverage at the fire station for the past twenty-three (23) years. Two (2) part-time fire fighters/EMTs are always assigned to work the weekend shifts, but may trade-off shifts without the fire chief's permission. Each week, two (2) part-time fire fighters work the Saturday shift (9:00 A.M. on Saturday to 9:00 A.M. on Sunday), and two (2) part-time fire fighters work the Sunday shift (9:00 A.M. to 5:00 P.M.). The Town assigns weekend coverage to those part-time fire fighters/EMTs on a rotating basis that includes all the part time fire fighters/EMTs below the rank of chief, excluding the current part-time captain.¹⁰ Further, the record establishes that part-time fire fighters/EMTs work during the week when they are toned for an alarm, or to fill shifts for a full-time fire fighter/EMT, or when called-in to perform standby work in the fire station if the on-duty fire fighters/EMTs are out of the fire station responding to a call. Moreover, like a full-time fire fighter/EMT, if a part-time fire fighter/EMT is scheduled to work, whether a regular shift or for shift coverage, and they fail to show up without a valid excuse, they may be disciplined. Similarly, if a tone goes out for fire fighters/EMTs, neither the full-time fire fighters/EMTs nor the part-time fire fighters/EMTs are required to respond to the tone, and there is no disciplinary action taken against a full-time or part-time fire fighter/EMT who is off-duty and does not respond to a tone.

Therefore, based on this record, we find that part-time fire fighter/EMTs, regardless of rank, who regularly perform weekend shift duty, respond to calls, and attend the department's monthly drills, have a sufficient interest in their employment relationship to par-

ticipate in collective bargaining and are not casual employees. Based on the statistical information, of the fifteen (15) part-time fire fighters, at maximum, twelve (12) fire fighters/EMTs are included in the weekend shift rotation list. Two (2) officers are assigned to each of the two (2) weekend shifts, one a twenty-four (24) hour shift and the other, an eight (8) hour shift. Therefore, assuming regular rotation with full participation by each of the twelve (12) part-time fire fighters/EMTs, each individual works, at minimum, thirty-two (32) hours every six weeks, or nearly seventy (70) hours each quarter year, excluding all other hours worked by these part-time fire fighters/EMTs responding to calls, standby and coverage hours, and attendance at monthly drills. This minimum number of hours exceeds that worked by the part-time reserve officers who were included in a unit of the full-time police officers in *Town of Newbury*, *supra*. It also exceeds the hours worked by the part-time dispatchers in *Town of Dartmouth*, *supra*, whom the Commission included in a bargaining unit of full-time employees. Accordingly, we conclude that their being regularly assigned to work the weekend shifts, coupled with the likelihood that they will work more than the minimum hours by attending the department's monthly drills, responding to calls, and performing standby work, gives the part-time fire fighters/EMTs sufficient regularity to treat them as regular part-time employees.

Further, the record establishes that one of the two part-time lieutenants, Lt. Woolhouse, is regularly assigned to work twenty-five (25) hours each week to perform fire inspection duties that have been performed historically by a uniformed member of the Town's fire fighting force. Further, as a ranking fire fighter/EMT, Woolhouse supervises one (1) of the three (3) engine companies, and coordinates the emergency and non-emergency activities of a fire station on an assigned shift. Therefore, we find that Woolhouse has substantial continuity of Town employment and works with sufficient regularity performing duties important to the Town to warrant participation in the collective bargaining process.

The final issue to be decided is whether the regular part-time fire fighters/EMTs share a community of interest with the full-time fire fighters/EMTs. Here, the record establishes that part-time fire fighters/EMTs perform the same duties as full-time fire fighters/EMTs, working with the full-time fire fighters/EMTs when responding to fires, medical emergencies, and other emergency situations. The full-time fire fighters/EMTs and the part-time fire fighters/EMTs work under the common supervision of the fire chief, and all Town fire fighters are subject to the same Town rules and regulations. Further, the same hiring process is used for both full-time and part-time fire fighters/EMTs, and the record demonstrates that four (4) of the five (5) current full-time fire fighters/EMTs, or eighty percent (80%), had prior service with the Town as a part-time fire fighter.

Although the full-time fire fighters/EMTs receive different training and different economic benefits, the hourly salary paid to full-time and part-time fire fighters/EMTs is substantially similar.

10. Only part-time fire fighters who are EMT-certified are regularly assigned to work the weekend shifts. The record in the Commission's prior unit determination did not establish that non-ranking part-time fire fighters performed more than occasional weekend duty. Rather, in 1992, the Town scheduled a part-time ranking offi-

cer to work on each of the two (2) weekend shifts. This practice no longer exists in the fire department. *Town of Sturbridge*, 18 MLC at 1420.

Any differences between the regular part-time fire fighters/EMTs and the full-time fire fighters/EMTs are outweighed by the undisputed fact that all Town fire fighters perform similar functions under similar working conditions. Therefore, we find that the regular part-time fire fighters/EMTs share a sufficient community of interest with the full-time fire fighters/EMTs to warrant including them in the same bargaining unit. *See, Town of Sturbridge*, 18 MLC 1416, 1421 (1992); *Town of Swansea*, 4 MLC 1527, 1528 (1977).

CONCLUSION AND DIRECTION OF ELECTION

Based on the record and for the reasons stated above, we conclude that a question of representation has arisen concerning certain employees of the Town of Sturbridge and that the following constitutes an appropriate unit for collective bargaining within the meaning of Section 3 of the Law:

All full-time and regular part-time fire fighters/EMTs below the rank of fire chief employed by the Town of Sturbridge, excluding the fire chief, and further excluding all managerial, confidential and casual employees, and all other employees of the Town of Sturbridge

IT IS HEREBY DIRECTED that an election by secret mail ballot shall be held for the purpose of determining whether a majority of the employees in the above-described bargaining unit desire to be represented by the Professional Fire Fighters of the Sturbridge Fire Department or by no employee organization.

The eligible voters shall include all those persons within the above-described unit whose names appear on the Town of Sturbridge's payroll for the payroll period ending on the Saturday immediately preceding the date of this decision, and who have not since quit or been discharged for cause. This list must be either electronic (e.g. Microsoft Access or Excel) or in the form of mailing labels. For the purposes of determining the eligibility of the regular, part-time fire fighters/EMTs to participate in this election, an employee's work history for the thirteen (13) weeks preceding the eligibility date, the Saturday immediately preceding the date of this decision shall be used. *See, Town of Millville*, 11 MLC at 1645 (1985) (Commission adopts the general rule that an employee's work history for the thirteen (13) weeks preceding the eligibility date offers the most helpful evidence of the quantity, regularity and currency of employment).

To ensure that all eligible voters shall have the opportunity to be informed of the issues and the statutory right to vote, all parties to this election shall have access to a list of voters and their addresses which may be used to communicate with them.

Accordingly, IT IS HEREBY FURTHER DIRECTED that two (2) copies of an election eligibility list containing the names and addresses of all eligible voters must be filed by the Town of Sturbridge with the Executive Secretary of the Commission, 399 Washington Street, 4th floor, Boston, MA 02108 not later than fourteen (14) days from the date of this decision.

The Executive Secretary shall make the list available to all parties to the election. Failure to submit the list in a timely manner may result in substantial prejudice to the rights of the employees and the

parties; therefore, no extension of time for filing the list will be granted except under extraordinary circumstances. Failure to comply with this direction may be grounds for setting aside the election, should proper and timely objections be filed.

SO ORDERED.