

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

In the Matter of the Petition of :
 LINCOLN COUNTY HIGHWAY DEPARTMENT EMPLOYEES :
 LOCAL 332, AFSCME, AFL-CIO :
 Involving Employees of : Case I
 : No. 8829 ME-66
 : Decision No. 6200
 LINCOLN COUNTY, WISCONSIN, Employed in the :
 LINCOLN COUNTY HIGHWAY DEPARTMENT :

Appearances:

Mr. Robert J. Oberbeck, Representative, for the Petitioner.
Mr. Ralph H. Nienow, District Attorney, for the Municipal Employer.

DIRECTION OF ELECTION

The above named Petitioner having petitioned the Wisconsin Employment Relations Board to conduct an election, pursuant to Section 111.70 of the Wisconsin Statutes, among certain employees of the above named Municipal Employer; and a hearing on such petition having been conducted at Merrill, Wisconsin, on September 25, 1962, by James L. Greenwald, Examiner, and the Board having considered the evidence and being satisfied that questions have arisen concerning representation for certain employees of the Municipal Employer;

NOW, THEREFORE, it is

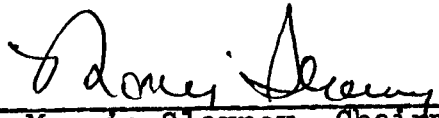
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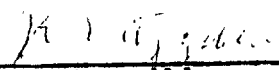
That an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Board within sixty (60) days from the date of this Directive in the collective bargaining unit consisting of all full time employees of Lincoln County, Wisconsin, employed in the Lincoln County Highway Department, excluding highway commissioner, assistant highway commissioner, patrol superintendent, confidential clerical personnel, and supervisory personnel who were employed by said Municipal Employer on January 2, 1963, except such employees as may prior to the election


quit their employment or be discharged for cause, for the purpose of determining whether or not a majority of such employes desire to be represented by Lincoln County Highway Department Employees Local 332, AFSCME, AFL-CIO for the purposes of conferences and negotiations with the above named Municipal Employer on questions of wages, hours, and conditions of employment.

Given under our hands and seal at the City of Madison, Wisconsin, this 2nd day of January, 1963.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By 
Morris Slavney, Chairman


J. E. Fitzgibbon, Commissioner


Arvid Anderson, Commissioner

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MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

At the hearing the Municipal Employer raised a question whether the petitioner must demonstrate a showing of interest in support of its petition. The Board has consistently held that no showing of interest is necessary for an initial petition since the statute requires none and no other authority exists for such a requirement.^{1/}

Another issue raised by the Municipal Employer was whether the Lincoln County Highway Department constituted a separate division or department. The evidence indicates that the County Highway Department is under the administrative supervision of the County Highway Commissioner, subject to the control of the County Highway Committee. The employes in the Department are under the supervision of no other executive officer of the Municipal Employer and engage in a separate and distinct function of the Municipal Employer. They perform work substantially different than work performed by other employes of the Municipal Employer. The Board concludes that the Highway Department is a distinct and separate department of the Municipal Employer and that employes in such department have a common interest in wages, hours and working conditions distinct and separate from the other employes of the Municipal Employer. Therefore, the Board will direct an election among employes of the Highway Department and if a majority of such

1/ Eau Claire County Home and Mt. Washington Sanitorium, Dec. No. 6183
12/62

employees select Lincoln County Highway Department Employees Local 332 AFSCME, AFL-CIO as their bargaining representative, Highway Department employees shall constitute a separate collective bargaining unit. If the majority of employees fail to vote in favor of such labor organization then they will also be deemed to have rejected the separate collective bargaining unit.^{2/}

Issues arose concerning the eligibility of certain employees to vote in the election by reason of their supervisory or craft status. The evidence indicates that Ray E. Drew, Fred Musch and Norman Zentner perform supervisory duties the vast majority of the time on the job. Drew has assigned to him five (5) other employees who he directs in various jobs connected with the maintenance of the Municipal Employer's roads. All three (3) are classified by the Municipal Employer as foremen and received \$1.85 per hour, whereas the average hourly rate for all other employees is \$1.72 per hours. Musch and Zentner supervise other phases of construction and maintenance of roads, but, in each case, have substantially larger crews than Drew. The Board concludes that Drews, Musch and Zentner, by reason of the large proportion of their time engaged in directing other employees and the differential in wage rates they receive for such work, are supervisors.^{3/}

The other issues concerned eligibility involve the question whether the blacksmith, mechanics and heavy equipment operators employed by the Municipal Employer are "craft" employees. The blacksmith performs iron working involving cutting, shaping, sharpening by heat, and welding. The record discloses that some of the other employees perform some aspects of his work in his absence. The record does not indicate whether or not the blacksmith served an apprenticeship and, although it does indicate he operated a blacksmith shop before his employ with the Municipal Employer, it does not indicate precisely what type of experience he obtained

^{2/} Appleton Water Commission, Dec. No. 6075, 8/62
^{3/} Shawano County, Dec. No. 6074, 8/62

in operating this shop. The record further indicates that the blacksmith received \$1.80 per hour. The two (2) mechanics employed in the Department perform work similar to that performed by automobile mechanics at service stations, where automobiles and trucks are maintained and repaired. Neither of these employes served any formal apprenticeship while employed in the Highway Department and the record does not indicate that they acquired formal training elsewhere. The heavy equipment operators operate shovels, grade-alls, front end loaders, mortar scrapers and bulldozers. They have no formal apprenticeship or training program except that employes having other duties are "broken in" on the heavy duty equipment from time to time so that should a vacancy occur they may be switched to such work. The Board concludes that the blacksmith, notwithstanding his classification with his Municipal Employer by a name denoting a craft and any experience in such craft he might have obtained by operating a blacksmith shop, concludes that he is not a craft employe, since no evidence indicates he served an apprenticeship or acquired equivalent experience and further since other employes who are not journeymen blacksmiths perform some of the same jobs that he normally performs and lastly, since his wage rate does not indicate that he possesses craft skills calling for compensation in excess of that paid other employes. For the same reasons, the Board concludes that the mechanics and heavy equipment operators are not engaged in a craft since they served no apprenticeship nor have they acquired equivalent experience and do not receive compensation indicating they possess skills generally recognized as being possessed by skilled journeymen engaged in a craft. ^{4/}

Dated at Madison, Wisconsin, this 2nd day of January, 1963.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By

Morris Slavney Chairman

J. E. Fitzgibbon Commissioner

Arvid Anderson Commissioner

^{4/} Winnebago County Hospital, Dec. No. 6043, 7/62