

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

ROCK COUNTY EMPLOYEES, LOCAL 1077B,
AFSCME, AFL-CIO, AFFILIATED WITH
WISCONSIN COUNCIL OF COUNTY AND
MUNICIPAL EMPLOYEES

Involving Certain Employees of

ROCK COUNTY

Case VIII
No. 12709 ME-444
Decision No. 9066

DIRECTION OF ELECTION

Rock County Employees, Local 1077B, AFSCME, AFL-CIO, having filed a petition with the Wisconsin Employment Relations Commission to conduct an election pursuant to Section 111.70 of the Wisconsin Statutes among all employees of the Rock County Building Maintenance Department, except the superintendent; and a hearing on such petition having been conducted at Janesville, Wisconsin, on April 23, 1969, Herman Torosian, Examiner, being present; and during the course of said hearing Rock County Employees Association having been permitted to intervene in the instant proceeding on its claim that it represents certain employees covered by the instant petition; and the Commission having considered the evidence and arguments of the parties, and being satisfied that questions have arisen concerning the appropriate unit and representation of certain employees of the Municipal Employer;

NOW, THEREFORE, it is

DIRECTED


That election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within sixty (60) days from the date of this directive in a voting group consisting of all Building Maintenance Department employees in the employ of Rock County, excluding the superintendent and all other employees, who were employed by said Municipal Employer on April 23, 1969, except such employees as may prior to said election quit their employment or be discharged for cause for the purpose of determining whether or not said Building Maintenance Department employees desire to constitute themselves a collective bargaining unit separate and apart from all other employees of said Municipal Employer and whether said employees

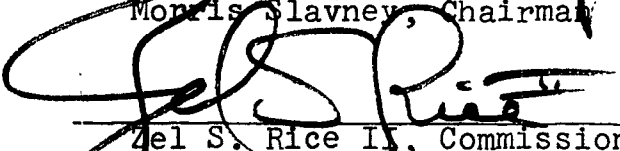
desire to be represented by Rock County Employees, Local 1077B, AFSCME, AFL-CIO, or by Rock County Employees Association, or by neither, for the purposes of conferences and negotiations with the above named Municipal Employer on questions of salaries, hours and conditions of employment.

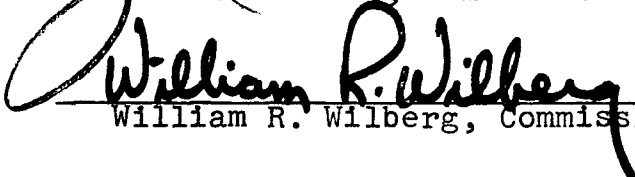
Given under our hands and seal
at the City of Madison, Wisconsin,
this 3rd day of June, 1969.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


William R. Wilberg, Commissioner

STATE OF WISCONSIN

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WISCONSIN COUNCIL OF COUNTY AND : Decision No. 9066
MUNICIPAL EMPLOYEES :
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Involving Certain Employees of :
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ROCK COUNTY :
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MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

The Petitioner, on February 28, 1969, filed its petition with the Commission requesting a representation election among all Building Maintenance Department employees, except the superintendent, in the employ of Rock County. Said petition did not indicate that any other employe organization claimed to represent or had any interest in the employees involved in the petition. On March 4, 1969, notice of hearing on the petition was issued setting the matter for hearing on March 18, 1969. Copies of the notice were sent to the Petitioner and to the Municipal Employer. The latter also received a copy of the petition. The hearing was adjourned following receipt of information from the Municipal Employer that it had previously recognized another organization as the exclusive bargaining representative of the employees covered in the petition, and on March 25, 1969, the Hearing Officer, by letter, requested the Petitioner, in accordance with the policy of the Commission, to furnish a showing of interest as a result of the contention by the Municipal Employer that another employe organization, the Rock County Employees Association, claimed to represent the employees covered in the petition. At the same time, as part of the showing of interest determination, the Hearing Officer requested the Municipal Employer to furnish him with a list of employees in the unit desired by the Petitioner. Thereafter, and prior to April 9, 1969, the Petitioner submitted sufficient evidence to satisfy the showing of interest, and on the latter date the Hearing Officer issued a second notice of hearing, setting hearing in the matter for April 23, 1969. Copies of the notice were sent to the Petitioner, the Municipal Employer and to the Rock County Employees Association, hereinafter referred to as the Association. However, a copy of the petition was inadvertently not sent to the Association.

Representatives of the Petitioner, the Municipal Employer and the Association appeared at the hearing. The Municipal Employer moved to dismiss the petition on various grounds. One of its grounds concerned the fact that the Association did not receive a copy of the petition. The Association was permitted to intervene in the proceeding on its claim that it represented certain employees covered by the petition, and the Association representative stated at the outset of the hearing that he assumed that the hearing concerned matters which the Commission would consider in determining whether an election should be conducted among the employees of the Municipal Employer. Failure of the Association to receive a copy of the petition, if the Association could have established that it was prejudiced thereby, would not be grounds for dismissal of the petition but might involve a postponement of the hearing. However, the Association was not prejudiced by its failure to receive a copy of the petition since its representative was fully aware of the issues and fully participated in the hearing. Therefore, the motion to dismiss the petition on that ground is denied.

The Municipal Employer further argued that the petition should be dismissed on the claim that it was not timely filed, alleging that the Municipal Employer had, in November 1967, voluntarily recognized the Association as the collective bargaining representative for certain employees of the Municipal Employer, including those covered in the petition and, further, that the Municipal Employer and the Association had, in good faith, negotiated with respect to wages, hours and conditions of employment for the employees involved in the petition for the year 1969.

The record discloses that on November 2, 1967, the Board of Supervisors of the Municipal Employer adopted a resolution with respect to its recognition of the Association. Said resolution states in part as follows:

"NOW BE IT RESOLVED that the Rock County Employees Association and its lawful representatives be and hereby is recognized by this Board as the collective bargaining representative in conferences and negotiations with Rock County and its representatives on questions of wages, hours, and conditions of employment for all the Rock County Employees excepting elective officials, supervisory personnel, the Sheriff's Department employees, Highway Department employees, employees already represented by labor organizations, and employees whose positions require a bachelor's degree or higher."

There was no evidence presented which would tend to establish that said recognition was improperly granted.

The Municipal Employer, in support of its claim that it had in good faith negotiated with the Association with respect to the wages,

hours and conditions of employment for the year 1969, introduced a copy of the "Rock County Employee's Handbook of Personnel Policies and Procedures", which it contended, reflected the agreement reached with the Association on conditions of employment for certain employees of the Municipal Employer, including those covered in the petition, for the year 1969.

While the Handbook sets forth detailed provisions with regard to appointments to work, rates of pay, hours of work, changes in employment situations, county benefits and programs for employees, memberships in associations and unions, and responsibility for county property, it is significant that nowhere in said Handbook is any reference made to the alleged representative status of the Association. The following language appears in the Handbook with respect to membership in associations and unions:

"All county employees have the same freedom of association as any other citizen. It is assumed that his personal time, only, will be used in any activity which is not county sponsored. An employee not wishing to join a labor union or association has the right, and may expect to exercise it without fear of discriminating action by his employer as a result thereof."

It is to be noted that the grievance procedure in the Handbook does not provide for representation of the grievant by the Association in any step of the grievance procedure but rather refers to the grievant's possible representation by a "friend or counsel." We are satisfied that there were no "conferences and negotiations" between the parties, as contemplated in Section 111.70, with respect to the conditions of employment set forth in the Handbook. The evidence establishes that the Municipal Employer adopted the Handbook and the wage plan in existence for 1969 unilaterally, with informal discussions with representatives of the Association on certain provisions in the Handbook. Furthermore, the membership of the Association, as a body, did not consider those matters contained in the Handbook before its adoption by the Municipal Employer, and, in fact, many employees were first apprised of same when they were given a copy of the Handbook and signed a receipt therefor. We are satisfied that the Handbook does not constitute a collective bargaining agreement, and, therefore, there is no collective bargaining agreement in existence which would bar the present determination of the bargaining representative among the employees involved in the petition.

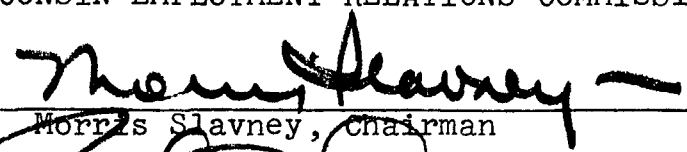
While at the outset of the hearing the parties stipulated to the appropriateness of the unit covered in the petition, as the hearing progressed an issue arose as to the appropriateness of the unit. It

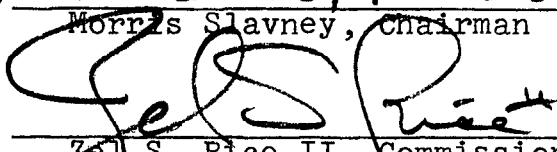
was stipulated that the Building Maintenance Department is a separate department of the Municipal Employer and, therefore, the employees therein are entitled to determine for themselves whether they desire to constitute a separate collective bargaining unit.^{1/} The parties stipulated to the classifications, and employees occupying same, eligible to participate in the elections. Such positions include Maintenance Man I and II employed in the Courthouse at Janesville, the Building Supervisor I and Maintenance Man II employed in the buildings housing the University of Wisconsin -- Rock County Campus, the Maintenance Man II position at the County Building in Beloit, and the part-time summer employe employed as a Groundskeeper at the Courthouse.

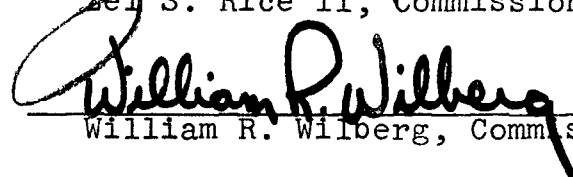
Dated at Madison, Wisconsin, this 3rd day of June, 1969.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, chairman


Zel S. Rice II, Commissioner


William R. Wilberg, Commissioner

^{1/} Joint School District No. 1, City of Green Bay et al. (8667) 8/68.