

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of  
LOCAL 236, LABORERS INTERNATIONAL  
UNION OF NORTH AMERICA  
Involving Certain Employees of  
CITY OF MADISON  
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Case XII  
No. 13336 ME-507  
Decision No. 9980

Appearances:

Mr. Michael J. McMahan, International Representative, Mr. Neil Stoveken, Attorney at Law, and Mr. Mike Cawley, President, for the Petitioner.

City Attorney, City of Madison, by Mr. William A. Jansen, Principal Assistant City Attorney, and Mr. Charles Reott, Personnel Director, for the Municipal Employer.

Mr. Robert J. Oberbeck, Executive Director, Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, for the Intervenor.

DIRECTION OF ELECTIONS AND ORDER CONDITIONALLY PROVIDING  
FOR THE IMPOUNDING OF REPRESENTATION BALLOTS

Local 236, Laborers International Union of North America having petitioned the Wisconsin Employment Relations Commission to conduct an election, pursuant to Section 111.70, Wisconsin Statutes, among certain employees of the City of Madison; and hearing on such petition having been held at Madison, Wisconsin, on December 18, 1969, before Morris Slavney, Chairman; and during the course of the hearing, Madison Employees Union Local 60, AFSCME, AFL-CIO, having been permitted to intervene in the proceeding on its claim that it represented certain of the employees involved; and the Commission having considered the evidence and arguments of Counsel, and being satisfied that questions have arisen concerning appropriate collective bargaining units and representation for certain employees of said Municipal Employer;

NOW, THEREFORE, it is

DIRECTED

That elections by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within thirty (30) days from the date of this Directive in the following voting groups:

Voting Group No. 1

All regular full-time and regular part-time Meter Readers employed in the Water Utility of the City of Madison, excluding supervisors and all other employees;

Voting Group No. 2

All regular full-time and regular part-time employees occupying the classifications of Custodial Worker II, Custodial Worker I and Janitress, employed in the Maintenance Division of the Library of the City of Madison, excluding supervisors and all other employees;

Voting Group No. 3

All employees occupying the classifications of Clerk-Driver II and Clerk-Driver I, part-time, employed in the Bookmobile Division of the Library of the City of Madison, excluding supervisors and all other employees;

Voting Group No. 4

All employees occupying the classifications of Engineering Aids and Construction Inspector I and II employed in the Surveying and Construction Section of the Engineering Division of the Department of Public Works of the City of Madison, excluding supervisors and all other employees;


who were employed by the Municipal Employer on October 28, 1970, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining (1) whether a majority of the employees eligible in each of said voting groups desire to establish themselves as separate collective bargaining units; and (2) whether a majority of the employees voting in each of said voting groups desire to be represented by Local 236, Laborers International Union of North America, or by Madison Employees Union Local 60, AFSCME, AFL-CIO, or by neither of said Labor Organizations, for the purposes of conferences and negotiations with the City of Madison on questions of wages, hours and conditions of employment.

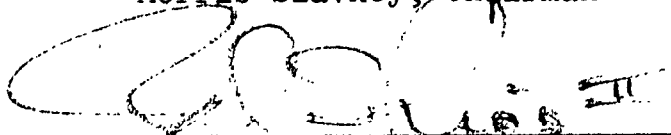
IT IS ORDERED that, should the employees in any of the voting groups not establish their particular voting group as a separate appropriate collective bargaining unit, then the representation ballots cast by said employees in said voting groups shall be impounded.

Given under our hands and seal at the  
City of Madison, Wisconsin, this 28<sup>th</sup>  
day of October, 1970.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Zel S. Rice II, Commissioner

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Case XII  
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Local 236, Laborers International Union of North America having filed a petition with the Commission requesting that the Commission conduct an election among "water meter readers," "library employees, non-professional" and "Engineering Aids I and II in the Engineering Department" in the employ of the City of Madison. During the course of the hearing it was established that the employees involved in the petition are, in fact, employed in three separate departments of the Municipal Employer, namely, the Water Utility, the Library Division, and the Engineering Department.

Prior to mid year 1969 the Meter Readers were employed in the Accounting-Commercial Section of the Water Utility, specifically in a division headed by the Utility Finance Officer. After the mid year and prior to November 25, 1969, the date on which the instant petition was filed, the Meter Readers were transferred to the Distribution Section headed by the Water Distribution Supervisor. The Distribution Section is divided into three main divisions, namely, (1) Public Works--Water Services, (2) Public Works--Water Maintenance System, and (3) Water Services. The Meter Readers are employed in the latter division, with no other employes. We are satisfied that the Meter Readers are employed in a separate division of the Municipal Employer.

After the petition was filed herein, the Municipal Employer formally recognized the Intervenor as the collective bargaining representative consisting of various employees employed in various departments of the Municipal Employer, including employees in the Water Utility, including the classification of Meter Reader. Subsequently, on December 23, 1969, the Municipal Employer and the Intervenor entered into a collective bargaining agreement covering the wages, hours and working conditions of the employees in said unit, including the Meter Readers. Since the petition was filed prior to the voluntary recognition granted by the Municipal Employer, neither the resolution adopted by the Municipal Employer granting recognition to the Intervenor nor the subsequent collective bargaining agreement are considered a bar to a present determination of representatives.

During the course of the hearing the petitioning Union amended its petition with respect to "library employees, non-professional" and indicated that it desired to represent the classification of Custodial Worker II, Custodial Worker I, Janitress, Clerk-Driver II and Clerk-Driver I, part-time. The Custodial Worker II and Custodial Worker I and Janitress are employed in the Maintenance Division of the Library, and such classifications are supervised by individuals who supervise no other employees. We conclude that the Maintenance Division is a separate division.

The Clerk-Driver II and Clerk-Driver I, part-time, are employed in the Bookmobile Division in the classification of Librarian II and a Librarian Assistant, part-time. Since the Librarian II is a professional employee and the Librarian Assistant, part-time, performs librarian-type duties which are distinct and unrelated to those performed by the Clerk-Driver II and Clerk-Driver I, part-time, we find that the latter two classifications, being non-professional in nature, are employed in a separate division.

Engineering Aids and Construction Inspector I and II<sup>1/</sup> are employed in the Surveying and Construction Section of the Engineering Division of the Department of Public Works of the Municipal Employer. Such classifications are the only non-supervisory and non-professional employees in said Section, and since they are employed in a separate section, they are considered to be employed in a separate division of the Municipal Employer.

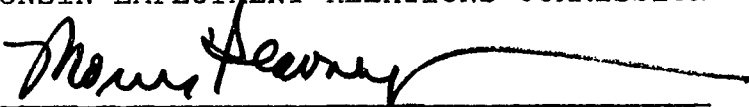
Since (1) the Meter Readers in the Water Utility, (2) the Custodial Worker II, Custodial Worker I, Janitress, Clerk-Driver II and Clerk-Driver I, part-time, employed in the Maintenance Division of the Library, (3) Clerk-Driver II and Clerk-Driver I employed in the Bookmobile Division of the Library, and (4) the Engineering Aids and Construction Inspector I and II are employed in a separate section of the Engineering Division of the Department of Public Works, said employees are employed in four separate divisions of the Municipal Employer within the meaning of Section 111.02(6) of the Wisconsin Statutes, and, therefore, pursuant to Section 111.05(2), Wisconsin Statutes, as provided in Section 111.70(4)(d), are entitled to determine for themselves whether the employees in each of said four separate divisions desire to constitute separate bargaining units, and, therefore, the Commission has directed four separate unit votes involving said employees. During the course of the hearing the Intervenor requested to be on the ballot should any representation election be directed, and, we are, therefore, including both the petitioning organization and the Intervenor on the representation ballots.

The Commission has also ordered that should any of the employees in any of the voting groups established herein not vote in favor of establishing their particular voting group as a separate appropriate collective bargaining unit, then the representation ballots cast by said employees in said voting groups shall be impounded.

Dated at Madison, Wisconsin, this 28<sup>th</sup> day of October, 1970.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slawney, Chairman

  
Zel S. Rice II, Commissioner

<sup>1/</sup> Engineering Aids and Construction Inspector I and II are identified in the petition as Engineering Aids I and II.