

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

	:	Case VII
	:	No. 14664 ME-659
	:	Decision No. 10389-D
	:	
	:	Case IX
	:	No. 14890 ME-692
	:	Decision No. 10620-A
	:	
In the Matter of the Petitions of	:	Case XI
WISCONSIN COUNCIL OF COUNTY AND	:	No. 14892 ME-694
MUNICIPAL EMPLOYEES, AFSCME, AFL-CIO	:	Decision No. 10621-A
	:	
Involving Certain Employes of	:	Case XIV
CITY OF RACINE	:	No. 14895 ME-697
	:	Decision No. 10622-A
	:	
	:	Case XIX
	:	No. 14900 ME-702
	:	Decision No. 10623-A
	:	
	:	Case XXI
	:	No. 14902 ME-704
	:	Decision No. 10624-A
	:	
	:	Case XXII
	:	No. 14903 ME-705
	:	Decision No. 10625-A

ORDER DISMISSING OBJECTIONS TO CONDUCT OF ELECTION

Pursuant to a Supplemental Direction of Elections issued by it, the Wisconsin Employment Relations Commission on November 19, 1971 conducted an election among assistant purchasing agent (Purchasing Department), deputy city clerk (Personnel Department), assistant traffic engineer (Traffic Department), assessors (Assessor's Office), assistant planning director and associate planner (Planning Department), program operator, program operator-timekeeper and assistant analyst (Finance Department), and sanitarian aide (Health Department), excluding all other employes of the City of Racine, who were employed on September 13, 1971, except such employes as may prior to the election quit their employment or be discharged for cause for the purpose of determining whether said employes desire to be represented by Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, for the purposes of conferences and negotiations with the City of Racine on wages, hours and working conditions.

Said Direction further provided that the result of said election be included in the results of the election conducted on July 28, 1971, and that a new amended tally of ballots be issued reflecting the combined results of both elections, and to that extent the Certification of Representatives issued by the Commission on August 21, 1971, be, and the same hereby is, set aside.

-	No. 10389-D	No. 10622-A
	10620-A	10623-A
	10621-A	10624-A
		10625-A

The election conducted on July 28, 1971 had been conducted by the Commission among the employes of the City of Racine to determine whether the employes therein desired to be represented, for the purpose of collective bargaining, by the Petitioner, in the following unit:

"All regular full-time and all regular part-time employes (averaging 20 hours per week or more) of the City of Racine, including employes in the Assessor's Office, City Attorney's Office, DPW, Cemetery, Personnel, Finance, Engineering, Memorial Hall, Health Department, Planning, Purchasing, Police Department, Library, Fire Department, WPCD, and all other City of Racine employes, but excluding all professional employes in the City Hall, law enforcement personnel in the Police Department, firefighters in the Fire Department, craft employes, employes represented by Local 67, AFSCME, and Local 63, AFSCME, confidential and supervisory employes."

The results of the July 28 election disclosed that the Petitioner had been selected as the bargaining representative by a margin of 62 to 57. The results of the balloting conducted on November 19, 1971 were as follows:

- 1. Eligible to vote..... 15
- 2. Total ballots cast..... 15
- 3. Total valid ballots counted..... 15
- 4. Ballots cast desiring representation by
the Petitioner..... 4
- 5. Ballots cast against such representation..... 11

Following the conduct of the November 19 election the Petitioner timely filed objections and amended objections to the election; and the Commission, having considered said objections and amended objections, being satisfied that same should be dismissed without hearing;


NOW, THEREFORE, it is

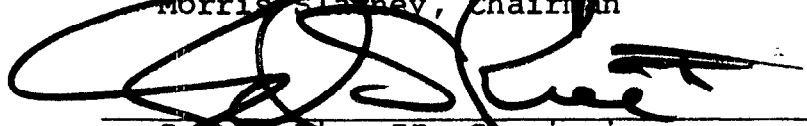
ORDERED

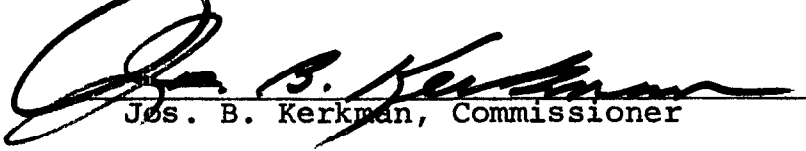
That the objections and amended objections to the election filed in the instant matter, be, and the same hereby are, dismissed. 1/

Given under our hands and seal at the City of Madison, Wisconsin, this 6th day of April, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Morris Slaney, Chairman


Zel S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner

1/ See Memorandum attached.

CITY OF RACINE, Cases VII, IX, XI, XIV, XIX, XXI,
and XXII, Decision Nos. 10389-D, 10620-A, 10621-A,
10622-A, 10623-A, 10624-A and 10625-A

MEMORANDUM ACCOMPANYING ORDER DISMISSING
OBJECTIONS TO CONDUCT OF ELECTION

In its objections the Petitioner sets forth three grounds urging the Commission to set aside the results of the balloting conducted on November 29, 1971, namely:

- (1) The Commission in its Supplemental Direction of Elections should not have set aside the results of the election conducted on July 28, 1971 and the results of the November 29 election should not be included in the results of such previous election and determine the results thereof, "since a considerable period of time passed between the said elections and various events occurred which destroyed the antiseptic conditions required for a representation election."
- (2) "Certain City employees, namely the four real estate assessors, John Gothner, Joseph Hamata, Matthew Keefe and Charles Rode, should not have been permitted to cast ballots, regarding the 'over-all' bargaining unit's representation by the Wisconsin Council, in the November 29, 1971, election, since they already had cast their ballots on the very same question in the July 28, 1971, election and should not, after a period of several months, have been permitted a chance to change their votes after the antiseptic conditions of the first election had been destroyed."
- (3) ". . . on November 19, 1971, the Common Council of the City adopted Resolutions numbered 865 and 866, which Resolutions conferred various substantial economic benefits on City employees 'not covered by labor contracts', these benefits to become effective as of and for the year 1972. On this same date the said Common Council adopted a budget for the year 1972, which budget restored monies previously deleted for the installation of air conditioning equipment for the benefit of City employees employed at the City Hall.

. . . on November 29, 1971, secret ballots were conducted as had been directed by the WERC, . . . These ballots were conducted among City employees who were the beneficiaries of the actions of the City set forth above, to determine whether they desired to be represented by Wisconsin Council."

Discussion

The objections noted in (1) and (2) above are based on the determination of the Commission, as reflected in its Supplemental Direction of Elections, to set aside the result of the balloting conducted on July 28, 1971 and to incorporate the results of the November 29 balloting with the results of the earlier election. The rationale for the Commission's determination in this regard was succinctly set forth in the Memorandum issued by the Commission accompanying the Supplemental Direction. Further, the Petitioner's Representative had suggested such procedure.

With respect to the objection noted in para. (2) the individuals named cast challenged ballots in the July balloting and their ballots, along with those cast by others, were not included in the tally of ballots in that election, by the mutual consent of the parties.

Furthermore the objections set forth in paras. (1) and (2) do not pertain to the conduct of the November 29 balloting, but rather constitute a belated dissatisfaction of the Commission's Supplemental Direction, apparently arising from the results of the balloting. Therefore, we conclude that the objections noted in (1) and (2) are frivolous and require dismissal.

As for the objection in para. (3) it should be noted that on November 29, pursuant to other Directions, the Commission conducted elections in ten other units of employes in the employ of the Municipal Employer. In seven of the units the employes selected the Petitioner as their bargaining representative, while in three of the units the employes rejected the Petitioner. No objection was filed with respect to the conduct of the elections in the three units wherein the Petitioner was rejected, despite the fact that the employes in said units, as well as those employes in the seven units wherein the employes selected the Petitioner as their bargaining representative, were also the recipient of the action of the Municipal Employer noted in para. (3). Further, in its Prayer for Relief, set forth in its Amended Objections, the Petitioner requests the following:

- (a) That the certification issued by the Commission on August 23, 1971 be restored and that the results of November 29, 1971 balloting not be included in the results of the former election as certified on the former date.
- (b) That the determination of the Commission, which resulted in the balloting of November 29 "be regarded as a unit clarification determination, and said employes be included in the overall unit, or that, in the alternative, the results of the November 29 balloting be considered for the purpose of determining whether those employes involved therein desired to accrete to the overall unit, provided the ballots cast by Gothner, Hamata, Keefe and Rode on July 28 be counted.

The Petitioner does not request that any new election be conducted, as is usually requested in objections filed to conduct of elections. The lack of such request persuades the Commission that the objection noted in para. (3) is without merit. We therefore conclude that it is not necessary to conduct a hearing on the objections involved. We are today also issuing certifications of the results of all the elections conducted on November 29 which were conducted pursuant to separate Directions.

Dated at Madison, Wisconsin, this 6th day of April, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel A. Rice II, Commissioner


Jos. B. Kerkman, Commissioner

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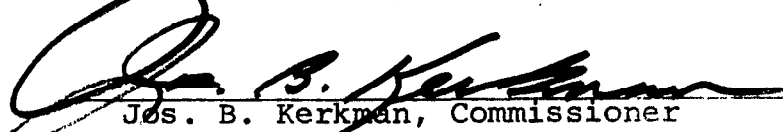
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