

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Case XIX
No. 16760 ME-929
Decision No. 11923

Pursuant to a Direction of Election made by the Wisconsin Employment Relations Commission in the above entitled case, the Commission conducted an election pursuant to Section 111.70 of the Wisconsin Statutes. The purpose of the election was to determine whether a majority of the eligible employees of the above named Municipal Employer, in the collective bargaining unit set forth in the Commission's Direction, desired to be represented by Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, or by Outagamie County Courthouse Employees Association, or by neither of said organizations, for the purposes of collective bargaining with the Municipal Employer on questions of wages, hours and conditions of employment.

1.	Total number eligible to vote.....	102
2.	Total ballots cast.....	79
3.	Total valid ballots counted.....	79
4.	Ballots cast for Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO.....	47
5.	Ballots cast for Outagamie County Courthouse Employees Association.....	30
6.	Ballots cast for neither organization.....	2

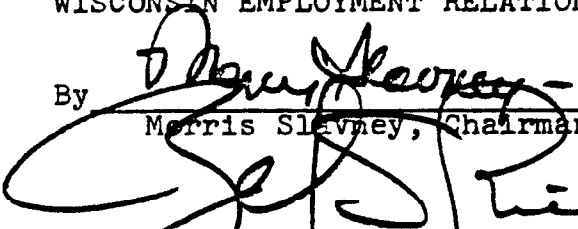
IT IS HEREBY CERTIFIED that Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, has been selected by a majority of the eligible employees of the County of Outagamie who voted at said election in the collective bargaining unit consisting of all regular full-time and regular part-time maintenance, custodial, clerical, case aide and home-making employees of the County of Outagamie employed in the County Courthouse, Social Services Department, Highway Department (clerical employees), Airport and Safety Building, but excluding elected officials, professional employees, Sheriff's Department employees, Highway

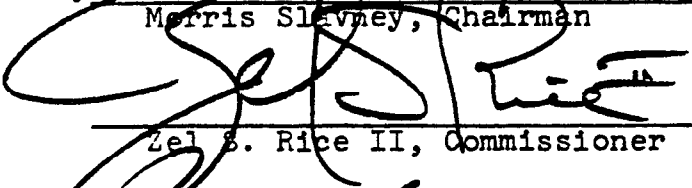
Department employees (excluding Highway clericals), County Institutions employees, Riverview Sanatorium employees, Department Supervisors, managerial, executive and confidential employees, as their representative; and that pursuant to the provisions of Section 111.70, Wisconsin Statutes, said Union is the exclusive collective bargaining representative of all such employees for the purposes of collective bargaining with the above named Municipal Employer, or its lawfully authorized representatives, on questions of wages, hours and conditions of employment.

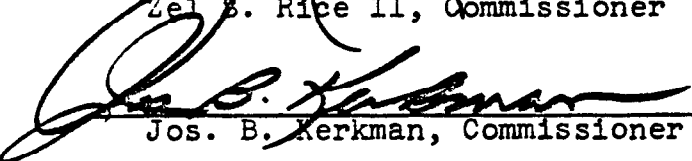
Given under our hands and seal at the
City of Madison, Wisconsin, this 30th
day of July, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel B. Rice II, Commissioner


Jos. B. Kerkman, Commissioner

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Case XIX
No. 16760 ME-929
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Mr. William Sandoval, Representative, appearing on behalf of the Petitioner.

Mr. William Schuh, Corporation Counsel, appearing on behalf of the Municipal Employer.

Mrs. Rita Lampman, President, appearing on behalf of the Intervenor.

Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, having petitioned the Wisconsin Employment Relations Commission to conduct an election pursuant to Section 111.70 of the Wisconsin Statutes, among certain employees of the County of Outagamie; and hearing on said petition having been conducted at Appleton, Wisconsin, on Wednesday, May 23, 1973, by Stanley H. Michelstetter II, Hearing Officer; and Outagamie County Court House Employees Association having been permitted to intervene in the matter; 1/ and the Commission having considered the evidence and being satisfied that a question of representation has arisen concerning certain employees of the Municipal Employer;

DIRECTED

1/ Prior to hearing Outagamie Professional Police Association filed a motion to intervene, but prior to hearing, withdrew said motion.

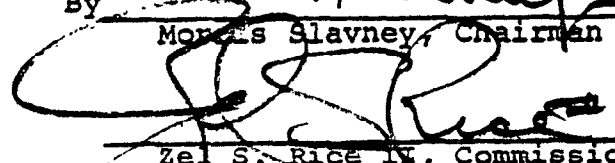
of such employes desire to be represented by Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, or by Outagamie County Court House Employees Association, or by neither of said organizations, for the purposes of collective bargaining with the County of Outagamie on questions of wages, hours and conditions of employment.

Given under our hands and seal at the City of Madison, Wisconsin, this 7th day of June, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice IV, Commissioner


Jos. B. Kerkman, Commissioner

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, herein referred to as Petitioner, by petition filed May 3, 1973 seeks to represent certain employees of the County of Outagamie, herein referred to as the Municipal Employer, presently represented by the Outagamie County Court House Employees Association, herein referred to as the Intervenor. While there is presently in effect a collective bargaining agreement between the Municipal Employer and Intervenor which terminates December 31, 1973 and which contains a deadline for the commencement of negotiations for a succeeding agreement of July 1, 1973, the parties stipulated that the Municipal Employer has no budgetary deadline and that, in any case, the forementioned agreement should not be considered a bar to an election. In accordance with our modified Wauwatosa policy, we find that sufficient reason exists for an election.

During the course of the hearing, the parties stipulated that the bargaining unit should be more specifically described to read as follows: All regular full-time and regular part-time maintenance, custodial, clerical, case aide and home-making employees of the County of Outagamie employed in the County Court House, Social Services Department, Highway Department (clerical employees), Airport and Safety Building, excluding elected officials, professional employees, Sheriff's Department employees, Highway Department employees (except Highway clericals), County Institutions employees, Riverview Sanatorium employees, Department Supervisors, managerial, executive and confidential employees. The parties further stipulated that the Map-Maker should be included in the unit, that the Systems Analyst, who regularly exercises the power to discipline employees, should be excluded as a supervisor, that his deputy should be included in the unit, that employees employed pursuant to the Federal Emergency Employment Act should be eligible to vote as regular part-time employees; that the Airport maintenance man be included in the unit and that the position which the Municipal Employer contemplates creating, Supervisor of Data Processing, is a supervisory position as described by the Municipal Employer at the hearing in the instant matter. We find no inconsistency with our policy in such stipulations.

A question arose during the course of the hearing as to the inclusion or exclusion of two positions. The Municipal Employer contends that the secretarial position in the Highway Department occupied by Alice Gregorius is supervisory. The evidence establishes that Gregorius is in charge of five clerical employees and, in that regard, sets out their work, inspects it, and counsels such employees when their work is incorrect. Further evidence established that she disciplines such employees. In cases involving discharge, she has the power to effectively recommend, and on one occasion has effectively recommended the discharge of an employee to the Highway Commissioner, who follows such recommendation without a substantial independent investigation. Gregorius has recommended the hire or refusal to hire employees, which recommendations the Municipal Employer has consistently followed. Gregorius spends the majority of her time thus supervising employees. We conclude that such position is supervisory and should be excluded from the unit.

The Municipal Employer also contends that the position presently occupied by Virginia Sternbeck in the Highway Department should be declared confidential. The uncontroverted evidence produced indicated that Sternbeck presently does no work, nor possesses any authority, which could be considered confidential (dealing with the Municipal

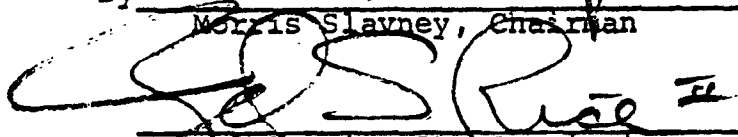
Employer's labor relations). All confidential work is presently done by Alice Gregorius. The Municipal Employer's sole contention is that it appears that should Petitioner be certified to replace Intervenor, the amount of confidential work will increase such that it will be necessary to give Sternbeck access to confidential employe records, require her to make various confidential reports and surveys and do certain cost work. The Municipal Employer estimates that such duties will consume more than 50% of Sternbeck's time. There can be no doubt that Sternbeck, at the date of hearing herein, was not a confidential employe and is, thus, eligible to vote. The testimony with respect to changes in Sternbeck's position was based upon a hypothecated need for confidential labor relations work. The speculative nature of such assumption makes it inappropriate to rule with respect to the confidential nature of such position as it might be in the future.

Dated at Madison, Wisconsin, this 7th day of June, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slawney, Chairman


Zel S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner