

CITY OF NEW LONDON, V, Decision No. 12170

MEMORANDUM ACCOMPANYING ORDER
CLARIFYING BARGAINING UNIT

New London City Employees, Local #1756-A, WCCME, AFSCME, AFL-CIO, hereinafter referred to as the Union, petitioned the Commission to determine whether the position of City Garage Manager is appropriately included or excluded from the existing collective bargaining unit certified by this Commission on April 12, 1966, as consisting of "all employes of the Department of Public Works of the City of New London excluding supervisors and craft employes." 1/

A diagram of the organization of the Public Works Department is attached hereto and marked Appendix A. The positions of Park Superintendent, Sanitary Landfill Superintendent, Street Superintendent, and Sewage Treatment Plant Superintendent are acknowledged by the parties as being supervisory and accordingly, excluded from the collective bargaining unit. The Street Department Foreman is regarded as a working foreman and is included in the collective bargaining unit. There are twenty-five employes in the Department of Public Works.

CITY GARAGE MANAGER

The Street Department was reorganized in July 1972. As a result, the position of City Garage Manager was created and made responsible for the maintenance of all equipment and vehicles. The City Garage is staffed by the Manager and a mechanic. The Garage Manager, the mechanic and the Director of Public Works have the authority to keep equipment in the shop for repair and to subsequently release it.

It is relevant to note that the individual equipment operators and truck drivers are responsible for performing preventive maintenance on their assigned vehicles. Such maintenance consists of routine general vehicle inspection including checks on oil, water, battery, transmission and/or hydraulic fluid, tires, lights, windshield and windows; oil and filter changes; chassis lubrication; and reports of all defective parts to the Garage Manager. Furthermore, the person responsible for maintaining a particular vehicle is also required to assist the mechanic with all major repairs performed on that vehicle, unless instructed otherwise by the Director of Public Works. Work orders for vehicle repairs are filled out in triplicate by the vehicle operator. Copies are furnished to the Garage Manager, the Director of Public Works and the operator.

Departmental communication concerning reorganization indicated that the mechanic had been placed under the direct supervision of the Garage Manager, or in his absence, under the supervision of the Director of Public Works. 2/ The mechanic had previously functioned under the direct supervision of the Street Superintendent. The Garage Manager has been assigned complete charge of any Street Department employes while they are performing duties related to vehicle, equipment or property maintenance in the City Garage, sheds or on city grounds.

The July 17, 1972 reorganization established work schedule priorities wherein it stated that:

1/ City of New London, (7505), 4/66.

2/ Employee's Exhibit 4, "Management Reorganization", 7-17-72.

"All equipment will be repaired in the order of preference starting with the most minor repair. All major repairs will be performed as time permits." 3/

Deviations from the foregoing policy are made only with permission from the Director of Public Works.

The duties of the Garage Manager, as stated in a job description prepared by the Municipal Employer in December 1972, include the following:

1. Every Monday the payroll must be in to the City Clerk's office before 11:00 A.M. You get all the forms from the Director of Public Work's secretary. At the end of the month you have to total up all the gas used by the various city departments and have this in the City Clerk's office before the first Council Meeting that month.
2. You must watch your gas supply and order 6,500 gallons when you have 500 gallons or less in the tank.
3. Keep a record of how much fuel oil is in the tanks and order accordingly.
4. The Police Department takes gas from the tank in back on weekends and holidays and you must keep a record of that on charge accordingly.
5. You are the supervisor of the mechanics and must see to it that they are busy. You are to see that all equipment is kept in good repair and repairs are made on equipment according to necessity and the nature of the repair. You are to see that each man comes in on the appointed day for him to perform preventive maintenance. All preventive maintenance is performed according to the maintenance program.
6. You will order all parts and equipment and use a purchase order for everything purchased. Using your copy of the purchase order, you will keep an accurate record of all maintenance on all Street Department equipment.
7. Each piece of equipment has a record book and these are used to make your equipment record complete.
8. You are also responsible for the maintenance and security of the city garage, boat house and the city yard. This includes sweeping and washing floors, replacing light bulbs and keeping the boiler fired up. You will see to it that all doors are closed and locked and all lights turned out before you go home at night, including the city yard gate.
9. You will make all street signs and traffic signs when needed. All materials will be purchased either from 3M Company or the State Prison. Signs are made up when needed.

3/ Ibid.

10. There are a few parts kept on stock but those that are, are very important and must be ordered accordingly.
11. You will sell a few items and when you do you must give a receipt to the person and then give one copy of the receipt and the money to the Treasurer.
12. You will be under the direct supervision of the Director of Public Works and will take orders from him only. However, you must cooperate with the Street Department Superintendent in getting your jobs done.
13. You will also be required to perform any additional duties assigned to you by the Director of Public Works whenever deemed necessary. 4/

The Garage Manager may relay messages to Street Department employes from his central location in the City Garage. He may request assignment of Street Department employes to clean the City Garage. Occasionally, but infrequently, the Garage Manager may assist the mechanic. In that the Garage Manager performs no mechanical work, such assistance is usually limited to supplying "an extra pair of hands". The Garage Manager's supervision of the mechanic is apparently limited to assigning jobs to the mechanic according to the nature of the repair indicated on the work order. In that the Garage Manager is not a mechanic, he does not check over the mechanic's work upon completion.

To date, only one grievance has been filed in the department and it was initiated at the level of the Director of Public Works. The Director of Public Works testified that he does not perceive that he himself has the authority to discipline or discharge an employe without consultation of higher levels of city management. Therefore, he concludes that the Garage Manager does not possess such disciplinary discretion although his recommendations would be considered. The Director of Public Works is responsible for hiring all departmental employes.

On January 1, 1973, Thomas L. Faucher was transferred from the position of Sanitary Landfill Superintendent to the position of City Garage Manager. The Garage Manager is presently compensated at the rate of \$3.18 per hour--an amount comparable to that earned by the vehicle operators. The Garage mechanic receives an hourly rate of \$3.36.

The Municipal Employer, contrary to the Union, alleges that the position of City Garage Manager is supervisory and managerial, and thereby, should appropriately continue to be excluded from the collective bargaining unit. Furthermore, the Municipal Employer notes the possible elimination of the Garage Manager position in the event that Faucher is promoted to the position of Street Superintendent upon the impending retirement of the incumbent Street Superintendent.

Section 111.70(o)1 of the Municipal Employment Relations Act defines "supervisor" as:

". . . any individual who has authority in the interest of the municipal employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employes, or to adjust their grievance or effectively

4/ Employer's Exhibit 3, "Garage Manager Job Description".

to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment."

In applying the foregoing statutory definition and preceding cases developing criteria for supervisory status, the Commission has held that not all the indicia of such status need be present to establish that a given position is supervisory. 5/

Managerial employes, as well as supervisors, have been excluded from MERA coverage on the basis that their relationship to management imbues them with interests significantly at variance with those of other employes. In that managerial employes participate in the formulation, determination and implementation of management policy, they are unique from their co-workers. Managerial employes function as agents of the Employer with regard to employe-employer relationships. 6/ In addition, managerial status may be related to a position's effective authority to commit the Employer's resources. Managerial employes do not necessarily possess confidential information relating to labor relations or supervisory authority over subordinate employes.

Having reviewed the record, we are satisfied that the Garage Manager exercises neither supervisory nor managerial authority over the Garage mechanic or other Street Department employes in the Department of Public Works.

It has not been established that the Garage Manager effectively hires, transfers, suspends, lays off, recalls, promotes, discharges, rewards, or disciplines other employes or adjusts their grievances. The Garage Manager's authority to assign work to the mechanic appears to be largely routine. Work scheduling is performed in accordance with the minor repair/major repair policy established by the Director of Public Works.

There is no indication in the record that the Garage Manager participates in the formulation, determination or implementation of management policy. We are satisfied that the Garage Manager primarily performs clerical tasks and routine ordering or purchasing functions.

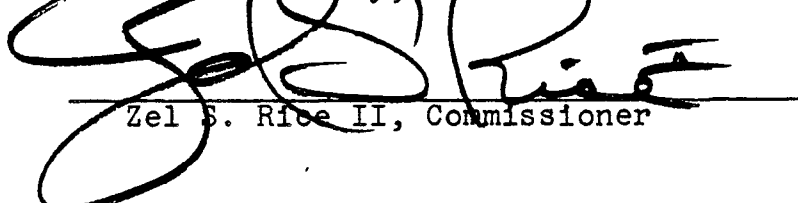
This Commission is satisfied that the position of Garage Manager is not supervisory or managerial and, thereby, is appropriately included in the existing collective bargaining unit.

Dated at Madison, Wisconsin, this 26th day of September, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

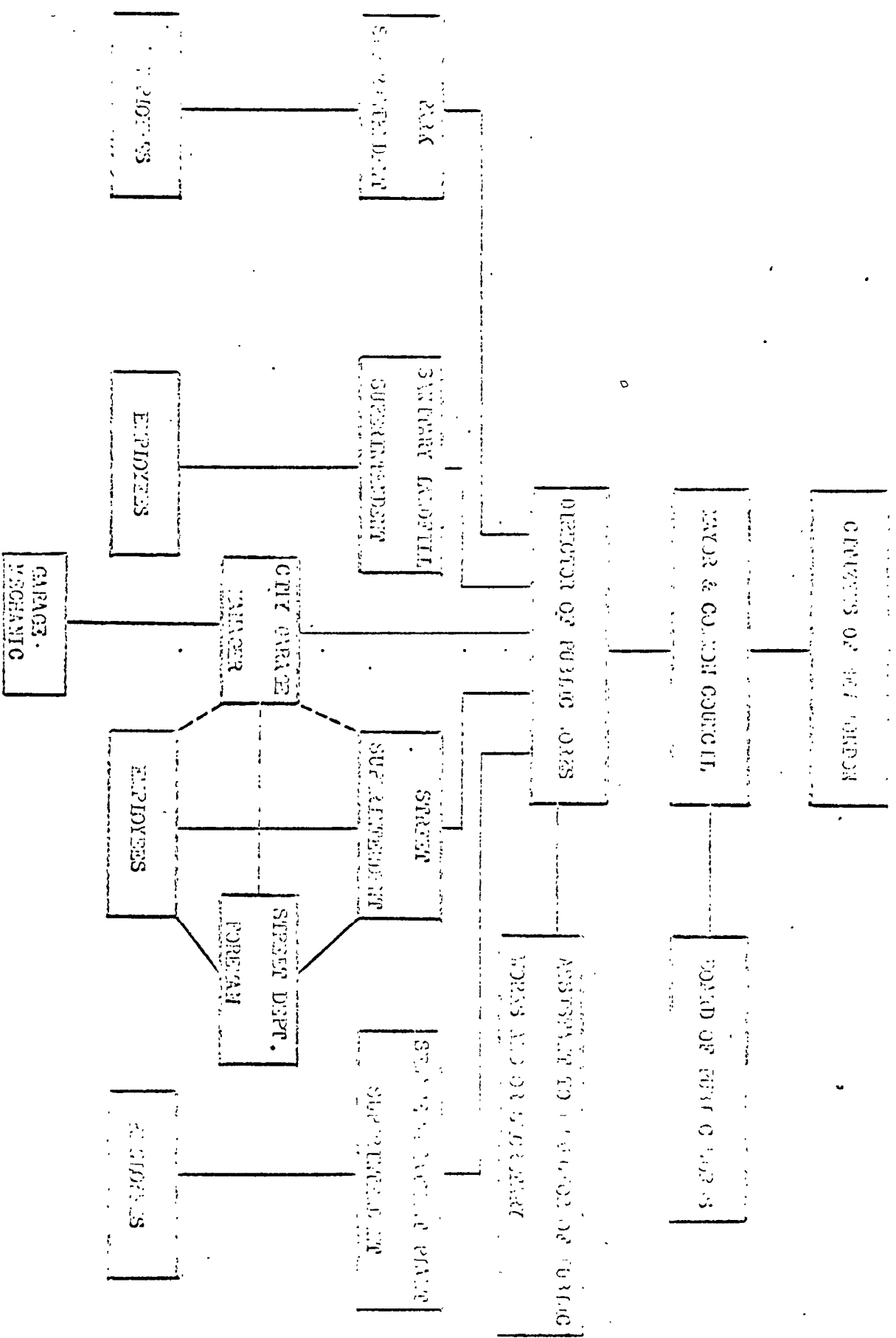
By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner

5/ City of Milwaukee (Engineers), (6960), 12/64.

6/ City of Milwaukee, (8100), 7/67.



Department of Public Works and Office of Supervision.