

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Stipulation of  
COUNCIL #40, WISCONSIN COUNCIL OF COUNTY  
AND MUNICIPAL EMPLOYEES, AFSCME, AFL-CIO  
and CITY OF RACINE  
Involving Certain Employees of  
CITY OF RACINE  
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Case XXXIV  
No. 17231 ME-985  
Decision No. 12252

CERTIFICATION OF REPRESENTATIVES

Pursuant to a Direction of Election issued by the Wisconsin Employment Relations Commission in the above entitled matter, the Commission conducted an election pursuant to Sec. 111.70(4)(d) of the Municipal Employment Relations Act, to determine whether the required number of the eligible employees of the above Municipal Employer, in the collective bargaining unit set forth in the Commission's Direction, desired to be represented by the above named Union for the purposes of collective bargaining with the Municipal Employer;

The result of the election was as follows:

1. Total number eligible to vote . . . . .	<u>133</u>
2. Total ballots cast . . . . .	<u>112</u>
3. Total ballots challenged . . . . .	<u>0</u>
4. Total ballots void . . . . .	<u>0</u>
5. Total ballots blank . . . . .	<u>0</u>
6. Total valid ballots counted . . . . .	<u>112</u>
7. Ballots cast for the above named Union . . . . .	<u>56</u>
8. Ballots cast against the above named Union . . . . .	<u>56</u>

NOW, THEREFORE, by virtue of and pursuant to the power vested in the Wisconsin Employment Relations Commission by Section 111.70, Wis. Stats.

IT IS HEREBY CERTIFIED that a majority of the eligible employees of the City of Racine, who voted at said election in the collective bargaining unit consisting of all regular full-time and regular part-time employees of the City of Racine, excluding supervisory, confidential, craft and professional employees as defined in the Act, and all other employees, failed to select Council #40, Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, as their collective bargaining representative.

Given under our hands and seal at the  
City of Madison, Wisconsin, this 21st  
day of December, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney -  
Morris Slavney, Chairman

Howard S. Bellman  
Howard S. Bellman, Commissioner

MEMORANDUM ACCOMPANYING  
CERTIFICATION OF REPRESENTATIVES

Following the conduct of the election, the Union filed a petition with the Commission requesting the Commission to determine a "challenged ballot" which was attempted to be cast in the election, but which the Commission's agent conducting the balloting refused to accept and refused to include in the tally of the ballots. In its petition the Union alleged that an employee, otherwise eligible to vote, and who was leaving on vacation on November 9, had notified the City's Assistant Personnel Director of that fact, thereupon the Assistant Personnel Director advised said employee that he had no absentee ballots and that the employee should contact the Union representative for same. The Union representative advises that it would have been impossible for him to obtain an absentee ballot through the mails from the Commission since the election was to be held on November 15. He also, however, indicated that he could have proceeded to the Milwaukee office of the Commission to receive such a ballot, but that he did not do so, since he had a prior commitment.

Subsequently, and prior to the election, the employee involved was advised by the Union representative to prepare a statement concerning her desire as to representation or to prepare a facsimile ballot and execute same in accordance with her desire and said employee was further instructed to place the ballot or statement in a blank envelope, seal it, and to deliver same to the Personnel Department of the City. The employee involved apparently did so and during the course of the election the City Personnel Director presented the sealed envelope to the Commission's election agent. The Commission's election agent refused to accept the envelope and returned it to the Union representative. The Union representative subsequently forwarded the sealed envelope and contents to the Commission's Madison office with the request that it be included in the tally of the ballots.

After the receipt thereof, the Commission, in writing, advised the Union representative that the Commission's agent justifiably refused to accept the ballot since it was not an official Commission ballot and at the same time indicated that should the City, in writing, agree that the ballot should be included in the final tally of the results of the election, it would be opened by the Commission and included in the final results. The City was informed of such possibility. Thereafter, on December 11, the City, by its counsel, while indicating that the City took no official position in the matter, did not agree that the Commission should accept the ballot in question as a valid ballot to be included in the tally of the results. Therefore the Commission has not done so and today has issued its Certification of the results of the election.

Dated at Madison, Wisconsin, this 21st day of December, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney  
Morris Slavney, Chairman

Howard S. Bellman  
Howard S. Bellman, Commissioner