STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

ROBERT W. SMITHSON

Involving Certain Employes of

CITY OF RACINE

Case XLVI

No. 18013 ME-1072

Decision No. 12918

Appearances:

Mr. Robert W. Smithson, Petitioner, appearing on his own behalf.

Mr. Karl Monson, Representative, Local 2239, appearing on behalf of the Union.

Mr. Albert Reid, City Clerk, appearing on behalf of the Municipal Employer.

DIRECTION OF ELECTIONS

Robert Smithson, on behalf of employes classified as Building Inspectors, Electrical Inspectors, Plumbing Inspectors, Sanitarians, Sanitarian Aides and Chemists, in the employ of the City of Racine, having filed a petition with the Wisconsin Employment Relations Commission to conduct an election pursuant to Section 111.70(4)(d) of the Municipal Employment Relations Act among employes of the City of Racine occupying said classifications in one unit; and hearing having been held on June 27, 1974 at Racine, Wisconsin, before Herman Torosian, Hearing Officer, and during the course of said hearing, Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, Local 2239 having been permitted to intervene upon its claim of representing the employes involved; and the Commission having considered the petition, evidence and arguments, and being satisfied that questions have arisen concerning representation for certain employes of said Municipal Employer;

NOW, THEREFORE, it is

DIRECTED

That elections by secret ballot be conducted under the direction of the Wisconsin Employment Relations Commission within sixty (60) days of the date hereof among the employes in the following bargaining units, who were employed by the Municipal Employer on August 6, 1974, except such employes as may prior to the election quit their employment or be discharged for cause for the purpose of determining whether or not a majority of such employes in each unit desire to be represented by Wisconsin Council of County and Municipal Employees, Local 2239, AFSCME, AFL-CIO, for the purposes of collective bargaining with the above named Municipal Employer on wages, hours and conditions of employment.

UNIT NO. 1

All regular full-time and all regular part-time Building Inspectors, excluding supervisors, confidential and all other employes of the City of Racine,

UNIT NO. 2

All regular full-time and all regular part-time Electrical Inspectors, excluding supervisors, confidential and all other employes of the City of Racine,

UNIT NO. 3

All regular full-time and all regular part-time Plumbing Inspectors, excluding supervisors, confidential and all other employes of the City of Racine,

UNIT NO. 4

All regular full-time and all regular part-time Sanitarians excluding supervisors, confidential and all other employes of the City of Racine,

UNIT NO. 5

All regular full-time and all regular part-time Sanitarian Aides excluding supervisors, confidential and all other employes of the City of Racine,

UNIT NO. 6

All regular full-time and all regular part-time Chemists excluding supervisors, confidential and all other employes of the City of Racine.

Given under our hands and seal at the City of Madison, Wisconsin this 6th day of August, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Mordis Slavney, Chairman

Zel/S. Rice II, Commissioner

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MEMORANDUM ACCOMPANYING DIRECTION OF ELECTIONS

Presently, the City of Racine and AFSCME, Local 2239 are parties to a collective bargaining agreement for calendar years 1973-1974, covering employes classified as Building Inspectors, Electrical Inspectors, Plumbing Inspectors, Sanitarians, Sanitarian Aides, Laboratory Technologists, Chemists and Crossing Guards, all in one bargaining unit.

On May 21, 1974, Robert Smithson, on behalf of employes classified as Building Inspectors, Electrical Inspectors, Plumbing Inspectors, Sanitarians, Sanitarian Aides, Chemists excluding Laboratory Technicians and Crossing Guards, filed a petition with the Commission requesting that an election be held among said employes, in one unit, to determine whether said employes desire that Local 2239 continue to represent them.

During the course of the hearing held on June 27, 1974, Local 2239 was permitted to intervene on the basis of its claim that it represents said employes. It is the position of Local 2239 that the Commission should not conduct any election because the Petitioner did not comply with the 30 percent showing of interest required for second elections. In this regard, Local 2239 points out that the list of employes attached to the petition filed by the Petitioner only contains the signature of 13 employes out of a unit consisting of 63 employes. The City takes a neutral position in the instant matter.

Petitioner claims that an election should be conducted among employes occupying only the positions of Building Inspectors, Electrical Inspectors, Plumbing Inspectors, Sanitarians, Sanitarian Aides and Chemists, or in the alternative should be permitted to have a separate election among employes in each classification in the same manner as elections were conducted by the Commission in said classifications in 1971.

In regard thereto, the Commission, in 1971, 1/ found Sanitarians, Laboratory Technologists and Chemists to be professional employes, and on said basis conducted separate elections in separate units among employes occupying those positions. The Commission also found Building Inspectors, Electrical Inspectors, and Plumbing Inspectors to be craft positions and conducted separate elections in separate units among employes in each of those classifications. The Commission found Sanitarian Aides to be non-professional and included said Aides in the overall non-professional City Hall unit. The Commission also conducted an election in a unit consisting of all Crossing Guards.

The Laboratory Technologists, Chemists, Sanitarians, Building Inspectors, Electrical Inspectors, Plumbing Inspectors and Crossing Guards all voted in favor of representation by Local 2239 and the Commission issued certifications accordingly. The non-professional unit of City Hall employes, which included Sanitarian Aides, voted against Union representation.

After the certifications of results of said elections, the City and Local 2239 entered into the instant collective bargaining agreement covering all of the above-mentioned employes in one unit.

Where the Commission has certified separate appropriate collective bargaining units, as was done in the instant case, and the Employer

^{1/} City of Racine, 10389-C, 10620-10625 (1971).

and the Union after said determination establish a collective bargaining unit combining said units, the Commission, for a second election, will not require a 30 percent showing of interest for the combined unit, but rather will only require a 30 percent showing of interest among employes in units which may be appropriate. The showing of interest for such separate units was sufficient to warrant further proceedings. For said reasons, the Commission has today directed separate elections among employes in the following separate units consisting of Building Insepctors, Electrical Inspectors, Plumbing Inspectors, Sanitarians, and Chemists.

Since the Sanitarian Aides were included in an overall City Hall unit which rejected representation in 1971, and the parties subsequently included them in the unit in question here, without any evidence on the record herein of authorization by the Aides, the Commission will permit the Aides to also vote separately to determine if they desire that Local 2239 continue to represent them.

Since the petition did not request elections among the Laboratory Technologists and Crossing Guards, no elections will be conducted among said employes.

Dated at Madison, Wisconsin this 6th day of August, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Morris Slavney Chairman

Zel S. Rice II, Commissioner

Howard S. Bellman, Commissioner