

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

-----  
In the Matter of the Petition of  
CITY OF MENASHA (CITY HALL)  
For Clarification of the Bargaining  
Unit for Certain Employees of  
CITY OF MENASHA  
-----

Case XXIX  
No. 20020 ME-1276  
Decision No. 14523

Appearances:

Mulcahy and Wherry, Attorneys at Law, by Mr. Dennis W. Rader, for  
the Municipal Employer  
Ms. LeNore Hamrick, District Representative, Local 1035B, WCCME,  
AFSCME, AFL-CIO

ORDER CLARIFYING BARGAINING UNIT

The City of Menasha having, on January 13, 1976, filed a petition with the Wisconsin Employment Relations Commission requesting that the Commission make a determination as to whether the positions of Clerk-Stenographer II and the Payroll Clerk should be included or excluded from the collective bargaining unit consisting of all regular full-time and regular part-time employees of the Menasha City Offices and all regular full-time and regular part-time nondeputized employees of the Menasha Police Department, excluding elected officials, managerial, supervisory, confidential, temporary employees, the Deputy Treasurer-Deputy Clerk, cashier, garage clerk, and assistant data processing manager; and a hearing having been held at Menasha, Wisconsin on February 25, 1976, Peter G. Davis, Hearing Officer, being present; and the Commission having considered the evidence and arguments of the parties and being fully advised in the premises, makes and issues the following

ORDER

That the position of Clerk Stenographer II shall be and hereby is, excluded from the collective bargaining unit described, while the position of Payroll Clerk shall remain included therein.

Given under our hands and seal at the  
City of Madison, Wisconsin this 8th  
day of April, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Thomas Slavney  
Morris Slavney, Chairman

Howard S. Bellman  
Howard S. Bellman, Commissioner

Herman Torosian  
Herman Torosian, Commissioner

MEMORANDUM ACCOMPANYING  
ORDER CLARIFYING BARGAINING UNIT

The City of Menasha, hereinafter referred to as the Municipal Employer, filed the instant petition for unit clarification based upon its belief that two clerical employees should be excluded from the bargaining unit due to their allegedly confidential status. Local 1035-B, WCCME, AFSCME, AFL-CIO, hereinafter referred to as the Union, opposes the exclusion of the two employees from the bargaining unit.

Payroll Clerk

The individual holding the position of Payroll Clerk is responsible for the maintenance of the Municipal Employer's personnel files. Utilizing the information contained in said files, this employee performs her basic duties, which entail processing the Municipal Employer's payroll, preparing numerous reports for various governmental agencies, and meeting the informational requests of various governmental officials.

The personnel files contain information regarding the status of individual employee's wage and fringe benefits as well as copies of any personnel evaluations or reprimands received by an employee. Access to the files is generally restricted with employees needing the approval of their supervisor before gaining possession of their individual files.

The Payroll Clerk has occasionally provided members of the Municipal Employer's bargaining team with statistical information, compiled from the personnel files, which aides the Municipal Employer in formulating its bargaining position. However, the employee has no access to or knowledge of the bargaining positions which result from use of the data.

The Municipal Employer premises the Payroll Clerk's alleged confidentiality upon her access to the personnel files and argues that said access could have a potentially adverse effect upon its ability to effectively bargain with the Union. Initially it is noted that virtually all of the information currently contained in the personnel files, such as reprimands and the status of an employee's fringe benefits, is generally available to employees in the bargaining unit. Furthermore, accessibility to personnel files is not in itself a sufficient basis for exclusion of an individual as a confidential employee. <sup>1/</sup> As the record reveals no other basis for exclusion, the Commission concludes that the position of Payroll Clerk is not confidential and thus should not be excluded from the bargaining unit.

Clerk Stenographer II

Operating under the supervision of the City Clerk, the Clerk Stenographer II performs a wide variety of clerical functions. While largely consisting of routine typing and filing, the clerical duties involved include the typing of internal memos from members of the Municipal Employer's bargain team regarding ongoing bargaining and of internal correspondence between various officials regarding the

---

<sup>1/</sup> Juneau County (12814) 5/74; Cudahy Board of Education (12087) 8/73;  
Menomonee Falls Joint School District #1, (11669) 3/73.

processing of employe grievances. At the City Clerk's request, said employe has also investigated potential abuse of sick leave by another employe. These duties were formerly performed by the Cashier but said individual's substantial unavailability during approximately one half of the year and her location in the Treasurer's Office prompted utilization of the Clerk Stenographer II by the Mayor, City Clerk and City Attorney. 2/ Based upon the Clerk Stenographer II's knowledge of the decisions of the Municipal Employer with respect to matters intimately connected with its collective bargaining relationship vis a vis the Union, the Commission concludes that the position is confidential and thus should be excluded from the bargaining unit.

Dated at Madison, Wisconsin this 8th day of April, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney  
Morris Slavney, Chairman

Howard S. Bellman  
Howard S. Bellman, Commissioner

Herman Torosian  
Herman Torosian, Commissioner

---

2/ As the issue of the continued confidential status of the Cashier was not raised by either party, no determination with respect to this position has been made.