STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

CENTRAL WISCONSIN UNISERV COUNCIL-

WEST

Involving Certain Employes of

MARSHFIELD JOINT SCHOOL DISTRICT NO. 1

Case III

No. 2002 ME-1275

Decision No. 14575-A

ORDER DENYING MOTION FOR RECONSIDERATION

Central Wisconsin UniServ Council - West having filed a petition for election among certain employes of the Marshfield Joint School District No. 1; and hearing on said petition having been held at Marshfield, Wisconsin on February 13, 1976 before Hearing Officer Sherwood Malamud; and during the course of said hearing the parties having been afforded an opportunity to adduce evidence and present arguments with regard to the appropriate inclusions and exclusions from the bargaining unit sought including positions alleged to be confidential within the meaning of Section 111.70(1)(b) of the Municipal Employment Relations Act (MERA); and said Hearing Officer having adduced evidence which established that two of the clerical employes in the Municipal Employer's central office were confidential employes and that no other clerical employes in the central office were confidential employes and on that basis the parties having agreed and the Commission having found that said employes were confidential employes 1/; and that subsequent to said finding and the election which was conducted thereon, wherein the clerical employes found to be not confidential were permitted to vote and the Petitioner was selected as the bargaining representative of the eligible employes, the Municipal Employer having requested that a redetermination be made with regard to the alleged confidential status of employes in the Municipal Employer's central office; and the Commission being advised in the premises and being satisfied that said request, which is in the nature of a motion for reconsideration, should be denied;

NOW, THEREFORE, it is

ORDERED

That the Municipal Employer's request that the Commission make a redetermination of the alleged confidential status of the clerical employes employed in its central office which is in the nature of a motion for reconsideration be, and the same hereby is, denied.

> Given under our hands and seal at the City of Madison, Wisconsin this 28 / day of July, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Slavney, Chairman

Lora Herman Torosian, Commissioner

Charles D. Hoornstra, Commissioner

MARSHFIELD JOINT SCHOOL DISTRICT NO. 1, III, Decision No. 14575-A

MEMORANDUM ACCOMPANYING ORDER DENYING MOTION FOR RECONSIDERATION

The election herein was conducted on May 18, 1976 and the results were certified by the Commission on May 28, 1976. Five of the seven clerical employes who work in the Municipal Employer's central office were found eligible to vote and four of said employes actually voted in the election.

On June 30, 1976, Arnold A. Bluemke, Assistant Superintendent for the District, wrote the Commission and indicated that certain employes in the District were excluded from the bargaining unit and that "it has now become apparent that the matter of which secretaries shall be included or excluded from the unit needs to be reviewed." When asked for a more specific statement as to why the Municipal Employer felt such a review was appropriate at this time, Bluemke responded as follows:

"This is in response to your letter of July 1 requesting more specific information as to the position of the District in regard to which secretaries should be included or excluded from the unit.

The concern of the district is only with the secretaries employed in the Central Office. We concede that secretaries employed in the various individual schools should logically belong to the unit.

Following is a listing of secretaries employed in the Central Office of the District:

Andrew, Catherine Butterbrodt, Judith *Fischer, Constance Holland, Dinah Michalski, Jean *Sochan, Constance Voll, Eleanor

Secretary of Elementary
Bookkeeper
Ass't. Superintendent's Secretary
Payroll Secretary
Purchasing Secretary
Superintendent's Secretary
General Secretary (part time)

*Excluded at present

At the time we received notice of the February 13 hearing, it was indicated that only teacher aides and food service workers would be involved in the unit. During the course of the hearing, Mr. Schmidt of the Uniserv Council stated that he had decided to request addition of the secretaries to the unit. Consequently, the district representatives at the hearing were not instantly aware of all the implications involved in having only two Central Office persons excluded from the unit.

Following are the reasons why a unit clarification is being requested:

- 1. The Central Office in our district may be unique in certain respects. While each employee has certain duties, as stated in the hearing testimony, we have a high degree of cooperation between the various individuals. When a secretary is caught up with her work, she volunteers to help out others having an excess of work at that particular time.
- 2. Many duties in a school district Central Office are interrelated, requiring consultation between secretaries. For example, when employee negotiations are in progress, the Superintendent's secretary needs to involve persons responsible for budget, payroll, and bookkeeping in order to gather pertinent information.

- 3. During periods of absence or vacation it is necessary for secretaries to switch duties in order to have work done promptly and effectively.
- 4. All secretaries, except one, work in one undivided office in close proximity to each other.
- 5. Harmonious working conditions are important in an office such as ours. In effect, we have created two classes of workers in our office. Some of the secretaries may look at this as the establishment of a hierarchy."

The petition was amended on the day of the hearing to include secretaries, and the District raised no objection to that amendment and participated fully in the hearing insofar as it dealt with clerical employes. Furthermore, the facts and arguments cited by the District would not alter the Commission's determination. It is clear that an employer cannot be allowed to exclude an inordinately large number of employes by spreading the work of a confidential nature among such employes or giving them occasional tasks of a confidential nature. To do so would be to allow the employer to deprive said employes of their status as "employes" under the law. 2/ Finally, the physical proximity of confidential and non-confidential employes or the effect of a finding a confidential status or non-confidential status on the sociometry of the work place are not appropriate considerations in making a determination of whether employes are confidential employes.

Dated at Madison, Wisconsin this 28th day of July, 1976.

By Morris Slavney, Chrirman

Herman Torosian, Commissioner

Charles D. Hoornstra, Commissioner

Menomonee Falls Jt. School Dist. No. 1 (11669) 3/73; Cudahy Bd. of Education (12087) 8/73.

·

.