

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of	:	
	:	Case CXVIII
WISCONSIN COUNCIL OF COUNTY AND	:	No. 25377 ME-1763
MUNICIPAL EMPLOYEES, AFSCME, AFL-CIO	:	Decision No. 17724
	:	
Involving Certain Employes of	:	
	:	
CITY OF RACINE	:	
	:	

Appearances:

Mr. Robert M. Chybowski, Representative, for the Petitioner.
Mr. Guadalupe G. Villarreal, Assistant City Attorney, for
the Employer.

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DIRECTION OF ELECTION

Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, having filed a petition with the Wisconsin Employment Relations Commission, requesting that the Commission conduct an election to determine bargaining representative for certain employes of the City of Racine; and a hearing having been conducted in the matter on January 29, 1980, before Stanley H. Michelstetter II, Examiner; and the Commission, having considered the evidence and arguments of the parties, issues the following Findings of Fact, Conclusions of Law and Direction of Election.

FINDINGS OF FACT

1. That Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, hereinafter referred to as AFSCME, is a labor organization, with offices in Burlington, Wisconsin.
2. That the City of Racine, hereinafter referred to as the City, has its offices at Racine, Wisconsin and operates a municipal government.
3. That in the instant proceeding AFSCME seeks a representation election among certain non-represented employes of the City in a collective bargaining unit which can be generally described as consisting of "clerical and related" and "technical" employes.
4. That during the course of the hearing the parties agreed to exclude various individuals from the unit involved herein on the basis that said individuals occupied positions requiring the exercise of either managerial, supervisory or confidential duties, or a combination thereof, or that some of the individuals so excluded were agreed upon as being professional, craft, or casual employes; that also during the course of the hearing the parties agreed as to various individuals who are properly included in the bargaining unit involved herein; and that however, during the course of the hearing, the City contended that Amy Bleeke (Secretary I-Parks & Recreation Department), Alice Nelson (Secretary III-Department of Public Works), Norbert Rennert (Systems Analyst Programmer - Department of Finance), and Dorothy S. Nicholson (Payroll Supervisor - Department of Finance) are

confidential employes, and therefore that said individuals should be excluded from the bargaining unit involved herein, and further that Nicholson is also a supervisor and should be excluded from the unit on that basis.

5. That Alice Nelson, Amy Bleeke, and Dorothy S. Nicholson perform substantial duties involving confidential labor relations matters, but that however, Norbert Rennert does not perform more than a de minimus amount of confidential duties.

Upon the basis of the above and foregoing Findings of Fact, the Commission makes and issues the following

CONCLUSIONS OF LAW

1. That all regular full-time and regular part-time "clerical and related", as well as "technical" employes, in the employ of the City of Racine, but excluding managerial, supervisory, confidential, casual, professional and craft employes, as well as law enforcement personnel with the power of arrest, firefighting personnel, and employes of the Waste Water Utility, constitute an appropriate collective bargaining unit within the meaning of Sec. 111.70(4)(d) of the Municipal Employment Relations Act.

2. That, since Amy Bleeke, Alice Nelson, and Dorothy S. Nicholson perform substantial duties involving confidential labor relations matters, Amy Bleeke, Alice Nelson, and Dorothy S. Nicholson are not municipal employes within the meaning of Sec. 111.70(1)(b) of the Municipal Employment Relations Act, and that therefore said individuals cannot be included in the above note appropriate collective bargaining unit.

3. That Norbert Rennert is a municipal employe within the meaning of Sec. 111.70(1)(b) of the Municipal Employment Relations Act, and therefore Norbert Rennert is included in the above noted collective bargaining unit.

Upon the basis of the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issue the following

DIRECTION OF ELECTION

That an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within sixty (60) days of the date of this directive in the appropriate collective bargaining unit consisting of all regular full-time and all regular part-time "clerical and related", as well as "technical" employes, in the employ of the City of Racine, excluding managerial, supervisory, confidential, casual, professional and craft employes, as well as law enforcement personnel with the power of arrest, firefighting personnel, and employes of the Waste Water Utility, who were employed on April 2, 1980, except such employes as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of such employes casting valid ballots desire to be represented by Wisconsin Council of County and Municipal Employees,

AFSCME, AFL-CIO for the purposes of collective bargaining with respect to wages, hours and conditions of employment.

Given under our hands and seal at the City of Madison, Wisconsin this 2nd day of April, 1980.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By *Morris Slavney*
Morris Slavney, Chairman

Gary L. Covelli
Gary L. Covelli, Commissioner

Herman Torosian
Herman Torosian, Commissioner

MEMORANDUM ACCOMPANYING FINDINGS OF FACT,
CONCLUSIONS OF LAW AND DIRECTION OF ELECTION

During the course of the hearing the parties stipulated to all relevant matters except as to whether some positions and the occupants thereof should be included or excluded from the bargaining unit involved herein. The City contended that the following positions (in addition to others discussed subsequently), and the occupants thereof should be excluded from the unit on the basis of the contentions noted:

<u>Position</u>	<u>Occupant</u>	<u>Contention</u>
Real Estate Assessor II	Charles Rode	Professional Employee
Real Estate Assessor II	John Gothner, Jr.	Professional Employee
Real Estate Assessor II	Joseph Hamata	Professional Employee
Real Estate Assessor II	Mathew Keefe	Professional Employee
Real Estate Assessor I	Virginia M. Lee	Professional Employee
Personal Property Assessor	Steve Kirkorean	Professional Employee
Radio Technician II	Richard Shulak	Managerial and/or Supervisory
City Sealer	Herbert Kaemmerer	Managerial and/or Supervisory
Junior Professional Librarian (Full-Time)	Lavern Puchter Leah Schepanski Barbara Koontz Ruth Trower	Professional Employee Professional Employee Professional Employee Professional Employee
Junior Professional Librarian (Part-time)	Ten Positions	Professional Employees
Library Supervisor II	Louise Paulson	Supervisory
Library Supervisor II	Margaret Marshall	Supervisory
Library Supervisor I	Meta Haanstad	Supervisory
Secretary I - (Parks & Recreation Dept.)	Amy Bleeke	Confidential
Secretary III - (Dept. of Public Works)	Alice Nelson	Confidential
Systems Analyst/ Programmer	Norbert Rennert	Confidential
Payroll Supervisor	Dorothy Nicholson	Supervisory and Confidential

After the completion of hearing testimony, the parties agreed to permit the Examiner to make a bench determination with respect to the "employee" status of any of the above positions which the Examiner chose to make at the time, and the parties agreed to accept such determinations as binding upon them. The Examiner, prior to the close of the hearing, made determinations, which we adopt, with respect to all, but the last four positions, as follows:

Real Estate Assessors II and I, and Personal Property Assessor

The occupants of said positions are required to possess a four year general college degree and they are not required to have knowledge of an advanced type in a field of science or learning within the meaning of Sec. 111.70(1)(L) of MERA, and that therefore the Examiner concluded that the occupants of said positions are not professional employes.

Radio Technician II

The primary function of said position is to develop specifications for radio, radar and surveillance devices for the City's police department. The occupant spends a majority of his time in this effort and in that regard supervises one employe. The occupant is responsible for determining the communication equipment needs of the City, and, in essence, independently selects the equipment to be purchases, with only minor restrictions. The Examiner concluded that the position is managerial.

City Sealer

Although the City Sealer, Herbert Kaemmerer, is the head of a City department, he does not have any regular employes under his direction. He does occasionally hire and supervise a summer help student. His primary function is to physically verify the accuracy of weighing and measuring devices. The Examiner concluded this position is neither managerial nor supervisory.

Junior Professional Librarians, Full and Part Time

Professional Librarians are admittedly professional employes within the meaning of MERA. Those positions require a masters degree in Library Science. Junior Professional Librarians perform the same duties as Professional Librarians, but do so with respect to the City's regional library and mobile library. The Junior Professional position requires a bachelor degree plus at least some course work in library science. In the past year one Professional Librarian has transferred to a Junior Professional Librarian position. The Examiner concluded the latter positions were professional positions within the meaning of the MERA because they involved professional duties and required knowledge of the advanced type contemplated by Section 111.70(1)(L).

Library Supervisory II and I

The Library Supervisors supervise at most two employes in the branch library, one of who is a part-time page (student). The only arguably supervisory authority they have over these employes is to direct their daily activities and to report disciplinary situations to a Head Librarian. The primary portion of their time is spent doing bargaining unit work. The Examiner found that these positions were not supervisory within the meaning of the Act.

The Remaining Positions

There remains for the Commission's determination issues as to whether the positions of Secretary I (Parks & Recreation Department), Secretary III (Department of Public Works), Systems Analyst and the Payroll Supervisor are to be included or excluded from the unit.

Secretary I (Parks & Recreation Department)

The Parks and Recreation Department operate the City's parks, zoo, cemetary, memorial hall and various neighborhood centers. The chief executive officer of the department is its Executive Director. His

secretary, Amy Bleeke (Secretary I), is responsible for maintaining his files, receiving his phone calls and visitors, and typing his correspondence. She is the only person in the department's main office responsible for handling confidential correspondence. The Director is responsible for labor relations planning, discipline and disposition of grievances beyond the first step of the grievance procedure set forth in an existing collective bargaining agreement covering employees other than those involved in the instant proceeding.

Bleeke types correspondence addressed to the Mayor's office and the Personnel Department consisting of proposed disposition of grievances and potential and actual labor relations problems arising in the Parks and Recreation Department. Bleeke is the sole confidential employee in a large department and she performs more than a de minimus amount of confidential duties, primarily for an individual who represents the City in labor relations matters affecting the department. The Commission, therefore, concludes that Bleeke's position is a confidential position.

Secretary III (Department of Public Works)

The Secretary III position in the department is occupied by Alice Nelson, who is the secretary to the Commissioner of Public Works, Fred Larson. The department consists of five divisions, solid waste, steel maintenance, engineering, building and building complex. There are approximately 150 employees employed in the department, with approximately 135 in a "blue collar" bargaining unit presently represented by the Union involved herein.

Nelson is one of the two secretaries in the department office. She is the sole person to perform confidential secretarial duties for Larson and apparently the rest of the department.

Nelson receives all of Larson's mail including that which is marked "confidential". She is responsible for maintaining a grievance file and a separate personnel file, both for Larson's use. The grievance file contains copies of all the grievances of the department and the department's answers thereto. For the most part this material is information available to the union. However, supervisors send Larson confidential reports with respect to grievances which Nelson photocopies and places the copy in the file.

Larson also maintains a small set of files in his office with respect to matters he considers of major importance, which include confidential employee disciplinary information. Nelson also receives copies of confidential information with respect to negotiations. Nelson sees this material and types Larson's confidential responses. Because Nelson is the sole confidential employee in a large department and performs more than a de minimus amount of clearly confidential work, primarily for a person engaged in the collective bargaining process, we conclude this position is not an employee within the meaning of the Act.

Systems Analyst

The Systems Analyst, Norbert Rennert, is the second man in charge of the City's data processing department, which is a division of the finance department. The Systems Analyst is responsible for preparing data analysis systems which are adapted to the computers. During negotiations the City will ordinarily have its Payroll Supervisor prepare costing information for collective bargaining. However, on some occasions present data retrieval and calculation systems are inadequate to obtain the type of cost figures designed by the City. On these occasions it asks the Systems Analyst to prepare a method of retrieval. This work is confidential from unions.

However, this work is not performed every year, and when the work is required, it involves a minimum amount of Rennert's time. For example, last year Rennert spent only a few hours in said confidential work. Since this work is de minimus and could possibly be performed by the Data Processing Manager, we conclude that Rennert is not a confidential employe.

Payroll Supervisor

Dorothy Nicholson, the Payroll Supervisor, is in charge of the payroll and reports directly to Maller, the Finance Department Director. She supervises one employe and occasional help borrowed from other departments. Nicholson participates in the hiring of her subordinate clerical employe and directs her work. However, she does not have the authority to independently discipline said clerical, but, instead, must recommend such action to Maller and the City's personnel department. It is not clear if this recommendation would necessarily be followed. Once a quarter Nicholson directs the functioning of key punch operators borrowed from another department, but has no other responsibility for them. Nicholson makes almost all of the other decisions affecting her department. She spends 25% - 30% of her total time performing clerical work and a large portion of the remainder making all of the approximately 150 to 300 payroll changes which must be made each week. In addition to the foregoing, she spends on an average 5 to 10% of her total time (usually spending large portions of her time during the actual negotiations), preparing direct dollar and total package cost of bargaining proposals being prepared by and received by the City in labor negotiations, which information is confidential from any of the labor organizations involved, revelation thereof would reveal the City's bargaining strategy. While this work could be done by Director Maller or other management personnel, it is not within the scope of their normal duties. Nicholson does not exercise supervisory duties in sufficient number and degree to be deemed supervisory. However, because she has been regularly preparing confidential information for the City's negotiations, and because she is effectively the only employe who can do so, we conclude she is a confidential employe within the meaning of the Act.

There is attached hereto Appendix A, a tabulation reflecting the positions, and incumbents thereof, which are included in the bargaining unit involved herein, as well as Appendix B, a tabulation reflecting the positions, and the incumbents thereof, which are excluded from the bargaining unit.

Dated at Madison, Wisconsin this 2nd day of April, 1980.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman

Gary L. Covelli
Gary L. Covelli, Commissioner

Herman Torosian
Herman Torosian, Commissioner

"APPENDIX A"

Employes Included in Unit

City Clerk

Secretary II (Eisenhut)
Registration Clerk (Williams)
Clerk III (Bingen)
Council Record Clerk (Brinker)

City Assessor

R.E. Assessor II (Rode, Gothner,
Hamata, Keefe)
Assessor's Clerk II (Gaitens)
Assessor's Clerk I (Schulz)
R.E. Assessor I (Lee)
Pers. Prop. Assessor (Kirkorian)

D.P.W. Administration

Secretary I (Bigalk)

Bldg. Complex Div. - D.P.W.

Console Attendent (Hansen)

City Engineer

Engineer Technician III
(McKissick)
Eng. Technician I (Carrier,
Dickfoss, Heether, Cluster,
Kovara, Drane, Andreasen)

Engineering Aide (Luelloff,
Silvasi)

Secretary II (King)

Engineering Clerk (Hawes)

Dept. of Transportation

Traffic Technician (Bencriscutto)

Clerk IV (Scholz)

Clerk-Typist (Eickhorst)

Planning Department

Drafter Technician (Pribyl)

Secretary II (Davison)

Park & Rec. Administration

Secretary III (Ricchio)
Drafter Technician (Schumann)
Secretary I (Barrows)
Clerk-Typist II (Westrich)

Purchasing

Secretary I (Hanes)
Clerk-Typist II (Hugasian)
Clerk-Typist I (Mueller)

Finance Department

Comp. Operator/Programmer (Pynaker)
Systems Analyst/Programmer (Rennert)
Cashier-Clerk II (Nelson)
Account Clerk II (Turbush, Zamecnik)
Keypunch Com. Operator (Johnson)
Cashier-Clerk I (Kirt)
Payroll Clerk (Pedersen)
Keypunch Operator I (Rickert)
Account Clerk I (Dinda)
Clerk II (Hohensee, Sapko)

Municipal Justice

Court Clerk (Smith)

Fire Department

Clerk-Typist II (Hurdis)

Police Department

Dup. Equip. Operator (Timler)
Civilian Jailer (Waldron, Woods,
Kuree, Lahr, Richmond)
Secretary II (Petersen)
Dispatcher (Castro, Mann, Glenzer,
Hartnek, Skow, LeRoux, Nelson,
McGraw, Beck)

APPENDIX "A"

Police Department

Keypunch Operator I (Greco)
Secretary I (Wespetel, Pollock,
Fouste)
Abandoned Vehicle Civilian (Thompson)
Clerk-Timekeeper (Simanek)
Clerk III (Chordegian)
Clerk-Stenographer II (Baumgarten)
Clerk-Typist II (Zarbock, Leger,
Harden, Widmaier, Zarzecki, Ilic,
Webber, Gilman, Steffens, Geyer)
Parking Meter Attendant (Boggs, Hahn,
Hornstra, Lanser, Hayes)
Keypunch Op./Clerk II (Reid)
Clerk-Typist I (Robinson, Adensam,
Bendtsen, Sill, Held, Knutson,
Pierson, Petrach, Rosenquish,
Swarez, Mudrak, Barker, Ress,
Macintosh, Burney, Sorensen,
Gray)
Radio Technician I (Elder)

Building Department

Clerk-Typist II (Christensen)
Clerk-Stenographer III (Haakenson)

Health Department

Lab. Technologist II (Weber)
Lab. Technologist I (Stardy)
Sanitary Aide (Jones)
Community Health Rep. (King)
Clerk III (Deigert)
Clerk-Typist II (Coyne, Prudhom)
Clerk-Typist I (Ellison)
Lab. Technician (Panyk)
Health Ser. Coord. (Doll)

Breakthru Center

Clerk-Typist II (Ware)

Washington Park Center

Clerk-Typist II (Chambers)
Community Aide (Eatmon)

Bryant Center

Clerk Steno. II (Dyess)

Community Services Admin.

Secretary I (Gliatas)

Recreation Department

Community Aide (Tashoff)

Library

Library Tech. I (Oravetz,
Degarabedian, Smith)
Clerk IV (Kardas)
Clerk III (Malin)
Library Assistant II (Orlovsky,
Pomeroy, Nauman, Mielke, Budrys,
McGray, Warren)
Library Assistant I (Guzman,
Easton, Braun)
Library Supervisor II (Paulson,
Marshall)
Library Supervisor I (Haanstad)
Wustum Museum
Clerk-Typist II (Klein)
Memorial Hall
Clerk III (Bixler)
Sealer of Weights & Measures
City Sealer (Kaemmerer)

"APPENDIX B"

Emploees Excluded from Unit

Mayor's Office

Secretary (De Mint) c

City Clerk

City Clerk (Shlaffer) m

Deputy City Clerk (Brown) m

Office of Economic Development

Director (Miller) m

City Assessor

Assessor (Mueckler) m

Asst. City Assessor (Hughes) m

D.P.W. Administration

Commissioner (Larson) m

Asst. to Comm. (White) m

Secretary III (Nelson) c

Bldg. Complex Div.

Bldg. Maint. Supv. (Young) s

Personnel Department

Director (Kozina) c, m

AA/EA Officer (Dyess) c, m

Personnel Officer (Ernst) c, m

Secretary II (Pace) c

Admin. Clerk (Zeratzky) c

Personnel Clerk I (Panyk) c

City Engineer

City Engineer (Blazek) p, m, s

Deputy City Engineer (Larsen) p, m, s

Asst. City Engineer (Kobbervig)
p, m, s

Civil Engineer II (Peterson, Dembiec,
Larsen, Lewis, Hagen, Schweitzer) p

Civil Engineer I (Weber) p

Dept. of Transportation

Traffic Engineer (Jenn) m, s

Asst. Traffic Engineer (McIntosh)
m

Transit & Traffic Engineer
(Glasheen) p

Planning Department

Director (Wright) p, m, s

Asso. Plan Director (Linsmeier)
p, m, s

Asso. Planner (Vaile, Youngman)
p, m, s

City Attorney

City Attorney (Boyle) p, m

Dept. City Attorney (Wright) p, m

Asst. City Attorney II (Torok) p

Asst. City Attorney I (Villareal)
p

Legal Assistant (Moskonas) c

Secretary II (Majewski) c

Secretary I (Schacht) c

Parks & Recreation Dept.

Director (Domer) m, s

Asst. Director (Zimdars) m, s

Asst. Rec. Director (Molbeck)
m, s

Secretary I (Bleeke) c

Purchasing

Purchasing Agent (Johnson) m, s

Asst. Purchasing Agent (Barton)
m, s

Finance Department

Director (Maller) p, m, s

APPENDIX "B"

Finance Department

Asst. Director (Sullivan) m, s
Data Proc. Supv. Programmer (Nelson)
m, s
Accountant IV (Moe) p
Accountant III (Klingenberg) p
Accountant II (Tran) p
Payroll Supervisor (Nicholson) c
Secretary II (Ferraro) c

Fire Department

Chief (Chiapete) m, s
Secretary II (Bent) c

Police Department

Chief (Carvino) m, s
Asst. Chief (Jerdee) m, s
Inspector (Hagman, Christensen)
m, s
Attorney (Lewis) p
Radio Technician II (Shulak) m
Secretary II (Whalen) c

City Electricians

Electrician (Houdek, Noppe) k

Building

Chief Bldg. Inspector (Hintz)
m, s
Elec. Inspector (Sura) m, s
Plumbing Inspector II
(Goodbrake) k
Plumbing Inspector I
(Kowbel) k
Bldg. Inspector I (Jensen,
Douglas) k

Building

Elec. Inspector I (Smithson) k

Solid Waste Division-D.P.W.

Labor Supervisor II (Golden,
De Rose) s

Dept. of Public Works

Street Supt. (Brouillette) m, s
Gen. Maint. Supv. (Meteyard) m, s
Labor Supervisor II (Thornton,
Billington, Bebow) m, s

D.P.W. - City Garage

Manager (Hueffner) s
Labor Supv. II (Ruud) s

Health Department

Public Health Commissioner
(Vacant) p, m, s
Lab. Director (Strake) p, s
Nursing Director (Vacant) p, s
Env. Health Dir. (Beaton) m, s

Health Department

Microbiologist (Hultman) p
Public Health Nurse II (Van Marter
Halliday, Schuster, Donley,
Banse, Chapman, Andersen,
Cramer, Moss, Wenman, Sims) p
Sanitarian II (Kinyou, Anderson,
Giles, Lowry, Wick) p
Sanitarian I (Geshrick) p
Public Health Nurse I (Drasic,
Kroupa) p
Dental Hygenist (Evans) p
Analytical Chemist (Kasprzak) p

APPENDIX "B"

Breakthru Center

Neighborhood Center Director
(Bennett) m, s
Recreation Coordinator (Snow) s

Washington Park Neigh. Center

Neighborhood Center Director
(Strasburg) m, s

Bryant Neigh. Center

Neighborhood Center Director
(Glover) m, s

Rec. Coordinator (Bostick) s

Community Services Administration

Director (Tyler) m, s
Comm. Rel. Coordinator (Cruz) m

Parks Department

Zoo Director (Rhoades) m, s
Parks Maint. Supr. (Schwarm) s
Labor Supv. II (Klacan) s
Labor Supv. I (Feiner, Hibbard,
O'Leary) s

Recreation Department

Rec. Program Supv. (Anderson) m, s
Labor Supv. I (Richards) s
Rec. Center Director (Anderson,
Juillierat, McDorman) s
Golden Age Program Supv.
(Schellinger) s
Hand. Program Supv. (Rowley) s

Golf Course Enterprise System

Golf Manager (Bencriscutto) m, s

Golf Course Enterprise System

Asst. Golf Manager (Nordentoft) m, s

Cemetery

Manager (Schuster) m, s
Labor Supv. I (Weber) s

Memorial Hall

Manager (Seianas) m, s

Parking System Maintenance

Labor Supervisor II (Tischer) m, s

Library

City Librarian (Le Suer) p, s
Lib. Dept. Supv. (Patane, Deck,
Elsmo, Reynolds) p, s
Librarian II (Snyder, Nordstrom,
Day, O'Halloran, Hartman) p
Jr. Prof. Librarian (Puchter,
Schepanski, Koontz, Trower) p
Lib. Bus. Manager (Rothe) m, s
Sr. Prof. Librarian (Amdursky,
Kaprelian) p
Jr. Prof. Librarian (Balcom, Martin,
Wells) p
Sub. Prof. Librarian (Ehlert) p
Prof. Librarian (Fachko) p
Sr. Library Asst. (Hurlburt) x
Film Desk Supv. (Liedick) x
Library Asst. II (Madsen, Tripp) x
Library Asst. I (Roberts) x
Pages & Student Assistants x