

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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 In the Matter of the Petition of :  
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 AFSCME DISTRICT COUNCIL 48, :  
 AFL-CIO : Case 197  
 : No. 44133 ME-423  
 Involving Certain Employees of : Dec. No. 17741-B  
 :  
 CITY OF MILWAUKEE :  
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Appearances:

Podell, Ugent & Cross, S.C., Attorneys at Law, by Mr. Alvin R. Ugent, Suite 200, 611 North Broadway, Milwaukee, Wisconsin 53202-5004, appearing on behalf of AFSCME District Council 48.  
 Mr. Thomas C. Goeldner, Assistant City Attorney, City Hall, 200 East Wells Street, Milwaukee, Wisconsin 53202, appearing on behalf of the City.

FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER CLARIFYING BARGAINING UNIT

On June 6, 1990, AFSCME District Council 48, AFL-CIO (herein petitioner or the Union) petitioned the Commission for an order clarifying its existing "White Collar" collective bargaining unit of City employes to include the newly-created and not-yet-filled position of Salvage and Sales Supervisor in the Inventory and Salvage/Stores Section of the Purchasing Division of the Department of Administration, contrary to the City's stated intention of treating that position as supervisory and outside the unit.

Pursuant to notice, a hearing was conducted in the matter at Milwaukee City Hall on October 11, 1990 by Marshall L. Gratz, a member of the Commission's staff. The parties presented their summations orally at the hearing. The Commission has considered the record and, being fully advised in the premises, issues the following Findings of Fact, Conclusions of Law and Order in the matter.

FINDINGS OF FACT

1. The City of Milwaukee (herein City) is a municipal employer with principal offices at City Hall, 200 East Wells Street, Milwaukee, Wisconsin.

2. AFSCME District Council 48, AFL-CIO is a labor organization with offices at 3427 West St. Paul Avenue, Milwaukee, Wisconsin. The Union is exclusive bargaining representative of several units of City employes including a unit known as the "White Collar" unit.

3. The City has a Purchasing Division in its Department of Administration. The Purchasing Division (herein Division) consists of 41 authorized positions and is headed by the City Purchasing Director, Edward A. Witkowski. The Division presently includes five Sections, one of which is called the "Stores" or "Inventory and Stores/Salvage" Section (herein Section).

4. The Section has historically performed two basic functions--Inventory Control and Stores/Salvage. Inventory Control involves the financial aspects of managing approximately 14,000 items in the City's 14 warehouses with total value of \$6.5 million and operating and maintaining an associated commodity code system. Stores/Salvage involves approximately \$3 million in annual stores disbursements and \$500,000 in revenues from sales of surplus and confiscated material. It includes responsibility for the following functions: Surplus and Salvage (keeping apprised of what surplus or obsolete items the various departments of the City have and taking steps at appropriate times to sell those items by means of informal telephone bidding or sealed bidding or auctions); Stores (operating the City's Central Warehouse housing some \$400,000 worth of inventory and handling some \$2.55 million in disbursements for petroleum products alone); Abandoned Cars (selling cars abandoned on the street with over a value of \$100); the Country Store (maintaining an outlet that is open to the public from time to time offering for sale on a pre-priced basis various surplus items from City purchases, items confiscated by police and other sources); and, more recently, Hazardous Materials Disposal (arranging tests of suspect materials, and labeling and disposing of unneeded toxic and otherwise hazardous materials).

5. At the time of the instant hearing, the Section is headed by the

City Inventory Manager, Richard C. Bunke (Pay Range: Management 6). Bunke reports to Witkowski and neither of their positions is included in any bargaining unit. Bunke is presently responsible for day to day supervision of the employees and activities of the Section both at the Division's Central office in City Hall and at the Central Warehouse/Country Store location, and from time to time at various other locations in the City. The City has 13 other warehouses, but only the Central Warehouse on Hawley Road is under the direct control of the Purchasing Division.

6. Prior to February of 1990, Bunke had five subordinates, all in the AFSCME bargaining unit and working in two subsections. The "Inventory Control" or "Automation & Inventory Control" subsection consisted of one Inventory Clerk (Pay Range 345). The Stores/Salvage subsection consisted of two Salvage and Sales Coordinators (Pay Range 530), one Clerk III (Pay range 425), and one Stores Clerk II (Pay Range 330) located at the Central Warehouse. In February of 1990, one of the Salvage and Sales Coordinators, Harold Hackbarth, retired. Since that time, the Section has consisted of the remaining four subordinates noted above working in the same two subsections. The Section has been and will continue to be assisted by clerical personnel from other sections in the Division when needed, but subject to overall budgetary limitations.

7. Bunke has, to date, possessed and exercised the major hiring, discipline, evaluation and work assignment responsibilities as regards the subordinates in the Section, and he has determined from time to time whether and when to call in additional clerical support personnel to assist the Section's employees in getting through peak workload periods. Bunke keeps Witkowski informed of ongoing personnel matters of significance, such as hiring and discipline, but in most instances, Witkowski defers to Bunke's judgments regarding those matters.

8. The City is presently in the process of reorganizing the Section. For the past two years, the City has been studying, selecting and preparing to implement two new systems for automated inventory control and procurement. The Division has been required to draw the money and personnel needed for those new systems from its existing resources. The project is expected to cost approximately \$1 million over the next two years. The Division's Automation Service Administrator has been working on selection of the new systems and will assist with initial start up, but that person's involvement in the project will end on approximately January 1, 1991. To carry out implementation of the new systems, the existing Inventory Manager's position is being retitled Automation Materials Management Manager (herein AMMM), and Bunke will be replaced as of January 1, 1991 by an individual with broader expertise in automating and linking inventory control with procurement and stores functions. The City's reorganization plans call for the AMMM to work almost exclusively (90+%) on the implementation of the new automation systems for perhaps the next five years, such that the person in that position will have very little work time to devote to the Stores/Salvage subsection.

9. After Hackbarth retired from his Salvage and Sales Coordinator position in February of 1990, the resultant savings for that position for the balance of 1990 were reallocated to fund a study related to the new automation project. In May of 1990, Witkowski obtained approval for retitling Hackbarth's former position as Salvage and Stores Supervisor and for changing it to a pay level of Management 2, based on a modified job description as reflected a comparison of the job descriptions in Findings 12 and 13, below. The City has chosen not to fill the Salvage and Stores Supervisor position to date both because it is using the associated funds for the balance of 1990 to meet automation project expenses and because it does not want to recruit for and fill the position with the question of bargaining unit inclusion/exclusion unresolved.

10. The pay grade/range and salary range of the various positions in the Section are as follows:

Title and Pay Grade/Range	Annual Rate	As of	Overtime Compensation
City Inventory Manager Management Grade 6	31,095 - 43,538 midpoint: 37,317	6-24-90	none
Salvage and Sales Supervisor Management Grade 2	24,094 - 33,727 midpoint: 28,910	6-24-90	1.5x
Salvage and Sales Coordinator 530	24,718 - 27,935	12-24-89	1.5x
Clerk III 425	19,917 - 21,950	12-24-89	1.5x

Inventory Clerk 345	22,347 - 24,718	12-24-89	1.5x
Stores Clerk III 330	20,860 - 22,893	12-24-89	1.5x

11. It is not known at present what the Salvage and Sales Supervisor's actual salary will be when the position is filled. The City's hiring procedures permit hiring a candidate for a Management Grade 2 position above the minimum but below the midpoint of the range with the concurrence of the Director of Employee Relations and the Chair of the Finance and Personnel Committee, and above the midpoint with the concurrence of the Finance and Personnel Committee, the Common Council and the Mayor. Those procedures call for the Department Head involved to support any such request with a statement of the reasons why the elevated hiring rate would be equitable, such as prevailing rates in the labor market, the preferred candidate's current level of compensation, or the levels of compensation of positions subordinate to the subject position.

12. The April 26, 1990 job description specifying the duties contemplated for the Salvage and Stores Supervisor reads, in pertinent part, as follows:

BASIC FUNCTION OF POSITION:

Responsible for supervising and administrating salvage/disposal operations and activities of the Central Stores Warehouse.

Act as City's Hazardous Waste Coordinator

DUTIES AND RESPONSIBILITIES:

50% - Salvage

Supervise the inspection, appraisal, and segregation, classification, safekeeping and disposal of all surplus, obsolete and scrap equipment and materials from the various city departments, boards and commission. Evaluate scrap and scrap market for highest value and return.

Supervise the operation of the city's Country Store outlet for the sale of surplus materials and equipment.

Arrange for and supervise the operation of all auctions conducted for the sale of city property.

Supervise the maintaining of all records of accounts, payments, and revenues relating to the Salvage/Disposal operations of the City of Milwaukee (in the Division of Purchases).

Conduct and supervise the established program for the disposition of used equipment and materials, scrap, junk, etc., in accordance with state statutes, city ordinances, and established procedures. Includes driving to various locations and working in all types of weather. Appraise, request bids, and sell city property, except real estate, as authorized by the Common Council, City Purchasing Director, state statutes and city ordinances.

Ensure the consumation of the transfer of usable equipment and materials declared surplus from one city department to another. Inspect and appraise, at the request of purchasing agents, all equipment and materials included as trade-ins on bids to assure value.

Coordinate the disposal of abandoned vehicles turned over to salvage.

25% - Stores Warehouse

Supervise the stores warehouse operations and distribution of commodities to city departments.

Administer fuel disbursement, record keeping, reports

and billing for the city.

15% - Hazardous Waste

Function as hazardous waste coordinator for the city, ensuring that the city's hazardous waste is properly stored, labeled, and disposed.

Work with Health and Safety Departments to ensure the city is not fined for accumulating hazardous waste.

Analyze, evaluate, make recommendations and implement, as appropriate, new methods of cost effective warehousing, salvage and hazardous waste disposition.

10% - Inventory Control

Function as backup for the city Inventory Manager, assisting in inventory quality control and contract compliance, and administer the federal Surplus Property Program.

Other duties as assigned.

SUPERVISION RECEIVED: . . .

City Inventory Manager outlines general procedures and methods, and periodically reviews progress.

SUPERVISION EXERCISED: . . .

Direct Supervision List the number and titles of personnel directly supervised. Specify the kind and extent of supervision exercised by indicating one or more of the following: (a) assign duties; (b) outline methods;; (c) direct work in process; (d) check or inspect completed work; (e) sign or approve work; (f) make hiring recommendations; (g) prepare performance appraisals; (h) take disciplinary action or effectively recommend such.

1 Salvage and Sales Coordinator - a, b, e, f and g, h

1 Stores Clerk II - a, b, e, f, g, and h

1 Clerk III - a, b, e, f, g, and h

Supervise Youth Employment Program personnel as assigned. Assigned duties, outlines methods to be followed and checks on the progress of the work assignments. Checks and inspects completed work and signs/approves completed work. Takes disciplinary action where necessary.

QUALIFICATIONS REQUIRED:

1. Minimum of 2 years experience in materials management including sales and salvage, and a basic understanding and knowledge of the storage and disposal of hazardous waste, at a level of Stores Clerk III or higher.

2. Supervisory ability and good oral and written communication skills. Ability to tactfully handle and deal with various levels and types of persons.

3. Must have driver's license and ability to lift a minimum of 50 pounds.

4. Willingness to work a flexible schedule.

SUPPLEMENTARY INFORMATION: . . .

Incumbent must be capable of exercising tact and diplomacy at all times, as he/she will be in constant

contact with personnel at all levels throughout the city government. In addition, will be required to have tact and diplomacy when dealing with contractors and bidders.

13. The Job Description of the now-eliminated Salvage and Sales Coordinator position formerly held by Harold Hackbarth was originally prepared on September 5, 1978 as regards a position titled Salvage/Disposal Clerk (pay range 350, Class Code 215). On January 18, 1979 it was retitled Salvage and Sales Coordinator (pay range 530) with only a minor modification of the duties description, and read in pertinent part as follows:

BASIC FUNCTION OF POSITION:

Responsible for Salvage/Disposal operations for the City of Milwaukee.

DUTIES AND RESPONSIBILITIES:

25% Conduct and supervise the established program for the disposition of used equipment and materials, scrap, junk, etc in accordance with state statutes, City ordinances and established procedures.

10% Appraise, request bids and sell City property, except real estate, as authorized by the Common Council, board of Estimates, City Purchasing Agent, state statutes and City ordinances.

10% Oversee the transfer of usable equipment and materials declared surplus from one City department to another. Inspect and appraise, at the request of CBP (City Board of Purchases) buyers, all equipment and materials included as trade-ins on bids to assure value.

10% Supervise the inspection, appraisal and segregation, classification, safekeeping and disposal of all surplus, obsolete and scrap equipment and materials from the various City departments, boards and commissions.

10% Supervise the operation of the City's "Country Store" outlet for the sale of surplus materials and equipment.

20% Coordinate all police towing contracts with the Chief of Police, the Superintendent of the bureau of Municipal Equipment and the commissioner of Public Works. Also coordinate the disposal of vehicles with the above.

10% Arrange for and supervise the operation of all auctions conducted for the sale of City property.

5% Supervise the maintaining of all records of accounts, payments and revenues relating to the Salvage/Disposal operations of the City of Milwaukee (in the Department of Purchases).

SUPERVISION RECEIVED: City Inventory Manager outlines general procedures and methods, and periodically reviews progress.

SUPERVISION EXERCISED: (Indicate the number and titles of subordinates supervised, if any. Specify the kind and extent of supervision exercised over these subordinates by indicating one or more of the following: (a) assign duties; (b) outline methods; (c) direct work in process continuously; (d) check or inspect completed work only in general; (e) check or inspect completed work in detail; (f) sign or approve work; and (g) take disciplinary action.)

Supervises one full time City employee, one CETA worker and 2-4 Youth Employment Program personnel. Assigns duties, outlines methods to be followed and checks on the progress of the work assignments. Checks and inspects completed work and signs/approves completed work. Takes disciplinary action where necessary.

QUALIFICATIONS REQUIRED: . . .

1. High School education.
2. Good oral and written English language capabilities.
3. Good communications skills when dealing with others.
4. Supervisory ability.

SUPPLEMENTARY INFORMATION

Incumbent must be capable of exercising tact and diplomacy at all times, as he/she will be in constant contact with personnel at all levels throughout the City government. In addition, will be required to have tact and diplomacy when dealing with contractors and bidders.

14. The City's plans for the Salvage and Stores Supervisor position, when filled, will have that position responsible: for the day to day supervision of the Stores/Salvage subsection and of the three bargaining unit employes working in it in addition to the Salvage and Stores Supervisor; for conducting hiring interviews for any vacancies that may occur in those three positions and for effectively recommending which candidate should be hired; for issuing verbal and written reprimands; for effectively recommending more severe disciplinary actions; for preparing probation evaluations for sign-off by higher management; for approving time off requests; for assigning work priorities among the personnel of the subsection; and for calling in clerical help from outside the Section within budgetary limits as the needs of the work require. Those supervisory responsibilities are of sufficient combination and degree as to render that position, when filled, supervisory in nature.

CONCLUSION OF LAW

The holder of the Salvage and Stores Supervisor position discussed above, when hired, will be a supervisor within the meaning of Sec. 111.70(1)(o)1, Stats.

ORDER 1/

The Salvage and Stores Supervisor position discussed above is hereby excluded from the "White Collar" AFSCME bargaining unit of City employes and from any other bargaining unit of nonsupervisory employes.

Given under our hands and seal at the City of Madison, Wisconsin this 29th day of January, 1991.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By \_\_\_\_\_  
A. Henry Hempe, Chairman

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Herman Torosian, Commissioner

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William K. Strycker, Commissioner

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1/ Please find footnote 1/ on page 8.

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1/ Pursuant to Sec. 227.48(2), Stats., the Commission hereby notifies the parties that a petition for rehearing may be filed with the Commission by following the procedures set forth in Sec. 227.49 and that a petition for judicial review naming the Commission as Respondent, may be filed by following the procedures set forth in Sec. 227.53, Stats.

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025(3)(e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefore personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59(6)(b), 182.70(6) and 182.71(5)(g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified.

. . .

(c) Copies of the petition shall be served, personally or by certified mail, or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

Note: For purposes of the above-noted statutory time-limits, the date of Commission service of this decision is the date it is placed in the mail (in this case the date appearing immediately above the signatures); the date of filing of a rehearing petition is the date of actual receipt by the Commission; and the service date of a judicial review petition is the date of actual receipt by the Court and placement in the mail to the Commission.

MEMORANDUM ACCOMPANYING FINDINGS OF FACT, CONCLUSION  
OF LAW AND ORDER CLARIFYING BARGAINING UNIT

BACKGROUND

The Union requests a declaration that the newly-created but as yet unfilled position of Salvage and Stores Supervisor (herein Supervisor) is properly to be included in the Union's "White Collar" unit rather than excluded therefrom as a supervisor. The factual background of the dispute is described in the Findings of Fact.

POSITION OF THE CITY

When the Supervisor position is filled, it will have key disciplinary and hiring responsibilities. The position will be responsible for hiring, discipline, evaluation and day-to-day work direction of three positions in the AFSCME bargaining unit: the Stores Clerk, the Salvage and Sales Coordinator and the Clerk III.

As compared with both the eliminated and the continuing Coordinator positions, the Supervisor position will have more supervisory and administrative responsibilities and more AFSCME bargaining unit subordinates. Although the Coordinator descriptions make reference to disciplinary authority, the evidence shows that no such authority was ever possessed or exercised by the Coordinators as regards other bargaining unit personnel, and that, at most, such authority existed as regards an occasional summer student helper.

The increased supervisory responsibilities to be performed by the Supervisor position are reflected in a salary range most of which is higher than the top of the Coordinator pay range. Due to the ongoing reorganization, the Section is in a state of flux, making it impossible to present evidence showing actual compensation and duties because the City has not and will not fill the instant position until the Commission determines whether it is supervisory or nonsupervisory in status. Nonetheless, both the evidence and common sense assure that the City would consider the ranges of the Supervisor's subordinates in determining where in the range the person hired as Supervisor would start, such that the Supervisor would surely be paid an appropriate amount more than any of his or her subordinates.

The evidence further indicates that the incumbent Inventory Manager will soon be replaced with an individual better suited to focus on the automation of the City's inventory function, leaving no time for that person to provide day to day or other meaningful supervision of the three AFSCME bargaining unit personnel under the Supervisor's supervision.

For all of those reasons, the City's position should be sustained and the Sales and Salvage Supervisor position should be excluded from the bargaining unit.

POSITION OF THE UNION

The evidence does not establish that the Supervisor position is supervisory. The City has merely attempted to retitle and cosmetically redescribe the same basic duties as were performed by the eliminated Coordinator position in order to avoid the promotion procedures in the Agreement.

Calling a position "supervisor" does not make it so. The pay range designated for the new position starts below that for the allegedly subordinate Coordinator position, indicating that there are no significant supervisory functions warranting a higher rate of pay than the Coordinator receives. Because it is not now known where on that range the City will set the actual starting pay for the individual, it is not clear whether the Supervisor will be paid more or less than the Coordinator, and if more, how much more. The only rate the Division Head can offer on his own authority is the minimum, which is below any rate in the Coordinator's range.

The substantive duties of the newly titled position appear very nearly the same as those of the Coordinator. The supervision of others is not mentioned in the percentage allocations in the Supervisor job description. Both positions are described as authorized to take disciplinary action.

The testimony offered by the City in support of its position is speculative and self-serving since it describes compensation not now being paid for duties not being performed in working relationships with a replacement for the Inventory Manager not yet hired to work nearly exclusively on automation systems not yet in place. The small number of alleged subordinates (3) and the fact that the incumbents are experienced in those jobs belie the City's witness' claim that the new Supervisor would be spending 50% of his time on supervisory duties. A comparison of the job descriptions indicates that the Supervisor will be doing basically the same duties as the eliminated bargaining



unit Coordinator did and that the new position will spend a great portion of the work day performing nonsupervisory bargaining unit duties. It is also hard to believe that the Supervisor will be ceded as much authority in the disciplinary and hiring action areas as the City claims.

The City's unilaterally designated pay range for the Supervisor position provides a starting pay below any point on the Coordinator's pay range, undercutting the notion that the position involves significantly greater supervisory responsibilities. Notably, the Supervisor will receive premium pay for overtime hours worked, which is not characteristic of true supervisors.

For all of those reasons, and because there is no actual track record by which to test the unlikely scenario the City claims will come to pass, the Commission should rule that the position is presently non-supervisory and leave it to the City to petition for a clarification at such subsequent time as the actual on the job experience supports its inherently incredible description of how things are supposed to turn out.

#### DISCUSSION

In determining whether a position is supervisory, the Commission considers the following criteria:

1. The authority to effectively recommend the hiring, promotion, transfer, discipline or discharge of employes;
2. The authority to direct and assign the work force;
3. The number of employes supervised, and the number of other persons exercising greater, similar or lesser authority over the same employes;
4. The level of pay, including an evaluation of whether the supervisor is paid for his or her skills or for his or her supervision of employes;
5. Whether the supervisor is primarily supervising an activity or is primarily supervising employes;
6. Whether the supervisor is a working supervisor or whether he or she spends a substantial majority of his or her time supervising employes; and
7. The amount of independent judgment exercised in the supervision of employes.

E.g., City of Milwaukee, Dec. No. 6960 (WERC, 12/64); Sauk County (Sheriff's Department), Dec. No. 17201-A (WERC, 6/87).

It is true that the pay range of the Supervisor position fully overlaps that of the Coordinator at both ends. However, the overlap is such that the midpoint of the Supervisor range exceeds the top of the Coordinator position by nearly \$1,000 annually. The evidence also indicates that City procedures permit appropriate City officials to authorize hiring above the minimum where justified by market conditions, the candidate's current pay level and/or the pay levels of subordinates of the supervisor being hired. While it cannot be known at present what the Supervisor's pay level will be, we do not find that uncertainty, in the foregoing circumstances, to be a basis for concluding that the Supervisor's pay will necessarily indicate that this is not a supervisory position.

The fact that the Supervisor will be compensated for overtime hours worked and at the same time and one-half rate as bargaining unit personnel is a factor that lends support to the Union's contention that the position is not supervisory.

However, the descriptions of the supervisory authority to be delegated to the Supervisor position in the job description and testimony presented by the City indicate that the position will, when filled, exercise a broad range of supervisory responsibility as regards the three bargaining unit employes in the Stores/Salvage subsection. Those supervisory responsibilities will include the authority to issue verbal and written disciplinary warnings and to effectively recommend more severe disciplinary penalties; to interview and effectively recommend selections for hiring; to prepare probationary evaluations subject to sign off by higher-ranking supervision; to approve time off requests; to assign work to employes in the subsection and to call employes from outside the subsection within budgetary limits when additional clerical support is needed.

Those supervisory functions are presently among the supervisory responsibilities of the Inventory Manager position, and the total number of that positions' subordinates will remain small enough (at five employes), to suggest that the new Automation Materials Management Manager, who will be replacing the Inventory Manager, could be reasonably be expected to continue to exercise the key supervisory responsibilities as regards all four of the employes in the Stores/ Salvage subsection. The evidence indicates, however, that if the City's current plans are carried out, the time and attention of the Automation Materials Management Manager for several years to come will be so

fully devoted to implementing the new automation systems that the day to day supervision and the hiring, discipline and other significant supervisory authority as regards the three bargaining unit subordinates in the Stores-Salvage area will in fact be delegated to the Supervisor.

The evidence also persuades us that the Supervisor will be performing many duties similar to those performed by the eliminated Coordinator function, and that these nonsupervisory duties will likely involve the substantial majority of the Supervisor's time. However, upon consideration of all of the above noted decisional criteria, we are persuaded on balance that the planned addition of the supervisory functions noted above will render the position supervisory in nature.

The Union is correct when it asserts that we cannot know with certainty that the City will in fact carry out its reorganization plans, delegate to the Supervisor all of the authority it plans to delegate, and pay the Supervisor at a level commensurate with supervisory responsibilities. However, we find no basis in the record evidence to conclude that the changes anticipated by the City will not come to pass. We find it more appropriate in these circumstances to declare the position supervisory on the basis of the City's well-defined plans, rather than to hold the position nonsupervisory which could prevent the City from carrying out its plans in the first place. If the reality that develops on the job ultimately indicates that, contrary to the City's stated plans, the Supervisor position is not in fact delegated the sort of significant supervisory authority relied upon herein, the Union can petition for a unit clarification at that time.

Dated at Madison, Wisconsin this 29th day of January, 1991.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By \_\_\_\_\_  
A. Henry Hempe, Chairman

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Herman Torosian, Commissioner

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William K. Strycker, Commissioner