

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of :
WISCONSIN COUNCIL 40, AFSCME, AFL-CIO : Case X
Involving Certain Employees of : No. 25267 ME-1750
CITY OF RICHLAND CENTER : Decision No. 17950
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Appearances:

Mr. Walter J. Klopp, District Representative, 5 Odana Court,
Madison, Wisconsin 53719, appearing on behalf of
Wisconsin Council 40, AFSCME, AFL-CIO.
Quarles and Brady, Attorneys at Law, by Mr. James C. Mallien,
780 N. Water Street, Milwaukee, Wisconsin 53202,
appearing on behalf of the City of Richland Center.

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND DIRECTION OF ELECTION

Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, filed a petition requesting the Wisconsin Employment Relations Commission to conduct a representation election pursuant to the provisions of the Municipal Employment Relations Act, among certain employees of the City of Richland Center; and a hearing in the matter having been conducted on February 5, 1980, at Richland Center, Wisconsin before James D. Lynch, Examiner; and the Commission having considered the evidence and briefs of the parties, and being satisfied that questions concerning the appropriate bargaining unit(s), and representation involving certain employees of said City have arisen, makes and issues the following

FINDINGS OF FACT

1. That Wisconsin Council 40, AFSCME, AFL-CIO, hereinafter referred to as AFSCME, is a labor organization and has its offices at 5 Odana Court, Madison, Wisconsin.
2. That the City of Richland Center, hereinafter referred to as the City, is a municipal employer having its offices at City Hall, Richland Center, Wisconsin.
3. That in the instant proceeding AFSCME seeks a representation election to determine whether the employees of the City, in the following alleged appropriate collective bargaining unit, desire to be represented by it for the purposes of collective bargaining:

All regular full-time and regular part-time employees of the City of Richland Center, employed in the Street Department, Parks Department, Cemetery Department, Water Department and Waste Water Treatment Plant, excluding managerial employees, supervisory employees, confidential employees, clerical employees and casual employees.
4. That the City contends that the employees in each of the above five separate departments constitute five separate appropriate collective bargaining units.

5. That at the time of the hearing herein the City employed the following individuals in the five departments involved, holding the following classifications:

Street Department

Richard F. Wilson - Superintendent
James L. Bird - Maintenance Worker
Paul L. Ewing - Waste Collector
John Foreman - Maintenance Worker
Maynard Leatherberry - Maintenance Worker
Keith E. Propp - Maintenance Worker
Richard D. Wilson - Maintenance Worker
William Stocks, Jr. - Maintenance Worker
Steven J. Hansen - Maintenance Worker
James A. Jewell - Maintenance Worker
Marion R. Dosch - Maintenance Worker
Allen G. Hendricks - Maintenance Worker
Monte Williams - Waste Collector

Parks Department

Tom N. Dray - Recreational
Director
Junior Draper - Custodian

Cemetery Department

George H. Rentz - Sexton
Fay Draper - Cemetery Worker

Water Department

Darwin Joseph - Foreman
Gayle Mathews - Maintenance
Worker

Waste Water Treatment Plant

Wilmer Keller - Superintendent
Wayne Carley - Maintenance Worker
Ervin Bloedow - Maintenance Worker
Merlyn Anderson - Plant Operator
Gerald Mueller - Plant Operator
Randy Sugden - Maintenance Worker

6. That, except for the Recreation Director, all the positions involved herein are occupied by individuals performing manual tasks and said individuals constitute all unrepresented "blue collar" positions in the employ of the City; that said occupants receive the same insurance and pension benefits; that the hourly wages of the various positions differ, primarily because of the relative nature of the skills and responsibilities of the positions involved and there are some minor differences in vacations and sick leave accumulations; that the employees in the five departments are headquartered in five different locations in the City; that, despite the differences noted herein, the employees in four of the departments, namely Street, Water, Cemetery and Waste Water Treatment Plant, are all under the direction and general supervision of the Director of Public Works/Utility Administrator; and that because of the general nature of their duties all regular full-time and regular part-time employees of the City employed in the Street Department, Parks Department, Cemetery Department, Water Department and Waste Water Treatment Plant constitute a homogenous group of employees having a common community of interest separate and apart from other employees of the City.

7. That during the course of the hearing the parties agreed that Richard F. Wilson, the Street Department Superintendent, was a supervisory employee; and that the City, contrary to AFSCME, contended that Thomas N. Dray, the Recreational Director; George H. Rentz, Cemetery Sexton; Darwin Joseph, Water Department Foreman; and Wilmer Keller, Superintendent, Waste Water Treatment Plant, were also supervisory employees; that Dray, the Recreation Director, in addition to other duties, is responsible for the general administration, planning, development and direction of a recreation program for the residents of the City, under the general direction of the City Park Board; and that the Cemetery Sexton, the Water Department Foreman, and the Superintendent of the Waste Water Treatment Plant spend the vast majority of their time performing manual work and similar duties of their positions and only a fraction of their time in performing duties as leadmen or working foremen.

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 employees of Richland Center employed in the Street Department, Parks Department, Cemetery Department, Water Department, and Waste Water Treatment Plant, excluding managerial, supervisory, confidential, clerical and casual employees, constitute an appropriate collective bargaining unit within the meaning of Section 111.70(4)(d)2.a. of the Municipal Employment Relations Act.

2. That the position of Recreational Director in the Parks Department, because of the managerial functions performed by the incumbent thereof, is not occupied by a municipal employee within the meaning of Section 111.70(1)(b) of the Municipal Employment Relations Act, as is the incumbent of the position of Superintendent in the Street Department; and that therefore the occupants of said positions are excluded from the appropriate bargaining unit involved herein.

3. That the positions of Cemetery Sexton, Water Department Foreman, and Waste Water Treatment Plant Superintendent, are neither managerial nor supervisory, and therefore the incumbents thereof are municipal employees within the meaning of Section 111.70(1)(b) of the Municipal Employment Relations Act, and thereby are included among the eligibles in the appropriate bargaining unit involved herein.

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


DIRECTION OF ELECTION


That an election by secret ballot be conducted under the direction of the Wisconsin Employment Relations Commission within thirty (30) days from the date of this directive among all regular full-time and regular part-time employees of the City of Richland Center employed in the Street Department, Parks Department, Cemetery Department, Water Department and Waste Water Treatment Plant, excluding managerial, supervisory, confidential, clerical and casual employees, who were employed by the City of Richland Center on July 17, 1980, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of such employees desire to be represented for the purposes of collective bargaining by Wisconsin Council 40, AFSCME, AFL-CIO, on matters relating to wages, hours and working conditions.

Given under our hands and seal at the City of Madison, Wisconsin, this 17th day of July, 1980.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Herman Torosian, Commissioner


Gary L. Covelli, Commissioner

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

In this proceeding AFSCME seeks an election in a unit consisting of all non-represented blue collar employees in the employ of the City. The City urges the Commission to conclude that each of the five departments constitutes an appropriate collective bargaining unit. In addition, issues arose as to whether four positions, as indicated in paragraph 7 of the Findings of Fact, should be included or excluded from any bargaining unit or units found to be appropriate.

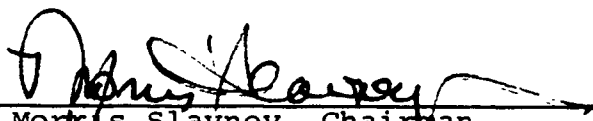
In establishing bargaining units pursuant to Section 111.70 (4)(d)2.a. of MERA the Commission ordinarily includes in a single unit employees employed in related classifications or positions, requiring similar training and performing similar duties, and in which the included employees share similar backgrounds and aspirations 1/ to avoid fragmentation of bargaining units, a policy set forth in said statutory provision. 2/ Here the blue collar employees in the departments involved all perform manual tasks, and have similar conditions of employment for the most part. The establishment of five separate units of such employees would result in undue fragmentation contrary to the policy set forth in MERA, and therefore we have concluded that one single bargaining unit is appropriate.

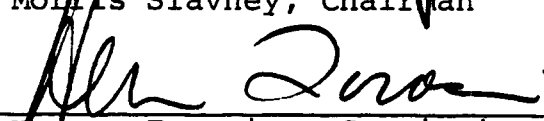
Issues also arose as to whether the occupants of four positions should be excluded from the unit. On the basis of the evidence adduced during the course of the hearing we have concluded that the Recreational Director is managerial, while the remaining three positions, as indicated in the Findings of Fact, are neither managerial nor supervisory.

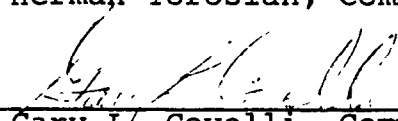
Dated at Madison, Wisconsin this 17th day of July, 1980.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Herman Torosian, Commissioner


Gary L. Covelli, Commissioner

1/ Dane County (10492-A) 3/72

2/ City of New Berlin (13173) 11/74