

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of	:	
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DISTRICT COUNCIL 48, AMERICAN	:	
FEDERATION OF STATE, COUNTY AND	:	Case LXII
MUNICIPAL EMPLOYEES, AFL-CIO	:	No. 26792 ME-1899
	:	Decision No. 18303-A
Involving Certain Employees of	:	
	:	
CITY OF GREENFIELD	:	
	:	

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ORDER SUSTAINING OBJECTIONS TO CONDUCT OF ELECTION

The Wisconsin Employment Relations Commission, pursuant to a Direction of Election previously issued by it, on December 23, 1980, conducted an election among all regular full-time and regular part-time employes of the Department of Public Works of the City of Greenfield to determine whether said employes desired to be represented by District Council 48, AFSCME, AFL-CIO, or by Teamsters Union Local 200, or by no organization, for the purposes of collective bargaining with said City; and after the polls had been closed, the Commission's Election Clerk, in the presence of observers of the parties, counted the ballots cast by the employes in said bargaining unit, and during said counting the Commission's Election Clerk considered one ballot to be void on the basis of some extraneous words on the ballot; and thereafter the City and Teamsters Union Local 200 having separately filed objections to the conduct of the election, contending that the Commission's Election Clerk should not have voided the ballot referred to above; and the City and Teamsters Union Local 200 having filed arguments in support of their objections, and the Commission being fully advised in the premises and having considered the ballot involved, as well as the arguments of the parties, and being satisfied that the Commission's Election Clerk erred in designating the ballot involved as a "void" ballot, and further being satisfied that the ballot involved should be included in the final tally of ballots,

NOW, THEREFORE, IT IS

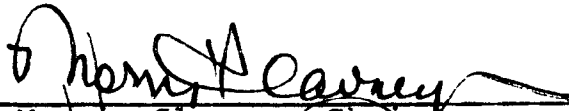
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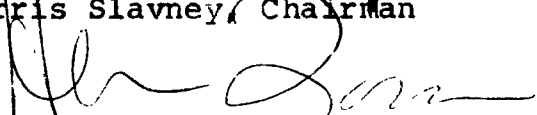
That the objections to the conduct of election filed herein by the City of Greenfield and by Teamsters Union Local 200 be, and the

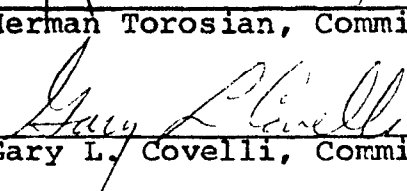
same hereby are, sustained, and that the ballot previously designated as void by the Commission's Election Clerk be deemed valid and included in the final tally of ballots. 1/

Given under our hands and seal at the City of Madison, Wisconsin this 3<sup>rd</sup> day of February, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By   
Morris Slavney, Chairman

  
Herman Torosian, Commissioner

  
Gary L. Covelli, Commissioner

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1/ The Commission is today issuing its Certification of the Results of Representation Election.

MEMORANDUM ACCOMPANYING ORDER SUSTAINING  
OBJECTIONS TO CONDUCT OF ELECTION

Pursuant to a Direction of Election previously issued by it, the Commission, on December 23, 1980, conducted an election among all regular full-time and regular part-time employees of the Department of Public Works, in the employ of the City of Greenfield, hereinafter referred to as the "City", to determine whether said employees desired to be represented for purposes of collective bargaining by District Council 48, AFSCME, AFL-CIO, hereinafter referred to as AFSCME, or by Teamsters Union Local 200, hereinafter referred to as Teamsters, or by "No representative". All twenty-four employees in said bargaining unit appeared at the polls and cast ballots. The ballot box was opened and the ballots were counted. None of the ballots were challenged. The Election Clerk considered one ballot to be void and the remaining twenty-three ballots were tallied, resulting in twelve ballots cast in favor of AFSCME, and eleven ballots cast in favor of Teamsters. No ballots were cast for "No representative". Both the City and Teamsters timely objected to the conduct of the election and asserted that the ballot deemed void was a valid ballot and therefore should be included in the tally of ballots.

The ballot in issue included the words "you bet" thereon and the ballot appeared as follows:

STATE OF WISCONSIN  
WISCONSIN EMPLOYMENT RELATIONS COMMISSION

OFFICIAL ELECTION BALLOT  
INVOLVING CERTAIN EMPLOYES OF

CITY OF GREENFIELD

(MARK "X" IN ONE SQUARE ONLY)

I desire to be represented by  
DISTRICT COUNCIL 48, AMERICAN  
FEDERATION OF STATE, COUNTY AND  
MUNICIPAL EMPLOYEES, AFL-CIO

I desire to be represented by  
TEAMSTERS UNION LOCAL 200.

you  
bet



I desire  
NO REPRESENTATION

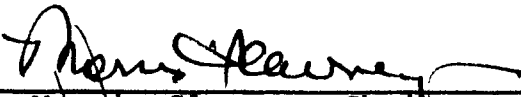



The City argued that the voided ballot contained a clear expression of the voter's preference and the words "you bet" merely emphasized that preference. The City pointed out that this was not a case where the ballot was marked in two separate places with markings which would make the voter's intent ambiguous. The City further argued that to void a ballot solely because it contained extraneous markings would elevate form over substance. Since the markings on the ballot did not reveal the identity of the voter, the ballot should be ruled valid. Teamsters also argued that the ballot indicated the unequivocal intent of the voter and preserved the secrecy of the voter, and that therefore the ballot should be found to be valid.

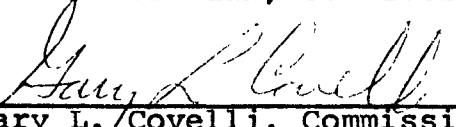
The Commission's standard for determining whether a ballot is valid is whether the voter's intention is clearly indicated and the voter's identity is not disclosed by examination of the ballot. 2/ Had not the words "you bet" appeared on the ballot it is quite clear that the employe casting same indicated a desire to be represented by Teamsters. The addition of the words "you bet" on the ballot does not contradict the voter's intent, nor does it create any ambiguity as to the voter's intent. Furthermore, the addition of the words "you bet" does not disclose the identity of the voter. For the above and foregoing reasons, we have concluded that the ballot is valid and we are therefore sustaining the objections filed by the City and Teamsters. We are today also issuing our Certification of the Results of Representation Election.

Dated at Madison, Wisconsin this 3<sup>rd</sup> day of February, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By   
Morris Slavney, Chairman

  
Herman Torosian, Commissioner

  
Gary L. Covelli, Commissioner

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2/ City of Milwaukee (6253-B, aff'd sub nom. Milwaukee County District Council 48, AFSCME v. WERB et al. 23 Wis. 2d 303 (1964)).