

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Nos. 19129
19130

Voting Group 1

All regular full time and regular part time employees of Marathon County excluding managerial, supervisory, confidential, professional, employees already in existing collective bargaining units, and all other employees of the Employer.

Voting Group 2

All regular full time and regular part time professional employees of Marathon County excluding managerial, confidential, supervisory, non-professional, employees already in existing collective bargaining units, and all other employees of the Employer;

and that the County would modify the described voting groups by inserting the departments in which the eligible employees are employed.

4. That the County would accrete the employees of Voting Group 1 to an existing collective bargaining unit, represented by the Union, which is described as follows:

all regular full-time and regular part-time employees of the Marathon County Department of Social Services, excluding all professional employees, Corporation Counsel, Director, and all supervisors, including Supervisor II, Supervisor I, Administrative Assistant IV and Administrative Assistant I.

and that the Union opposes the inclusion of petitioned for employees in any existing unit.

5. That the parties have agreed that the professional employees (Voting Group 2) should also be given the opportunity to determine whether they desire to be included in a single bargaining unit with the non-professional employees (Voting Group 1); and that the Union's acquiescence thereto is conditioned on not accreting said non-professional employees to the existing unit described in paragraph 4, supra.

6. That at the time of the hearing herein, there existed the following collective bargaining units consisting of employees of the County, which units are represented for the purposes of collective bargaining by the labor organizations indicated:

<u>Unit</u>	<u>Bargaining Representative</u>
Professional teachers in the employ of the Handicapped Children's Education Board	Marathon County Special Education Association
"Blue collar" employees of the Highway Department	Local 326, AFSCME
Professional employees of the Health Department	Local 2492-B, AFSCME
"Blue collar" employees of the Park Department	Local 1287, AFSCME
Full-time deputies in the Sheriff Department	Deputy Sheriff's Association
Employees, including professional, in the CETA Program Office	Local 2492-C, AFSCME

<u>Unit</u>	<u>Bargaining Representative</u>
Professional employees in the Department of Social Services	Local 2492-A, AFSCME
Paraprofessional and clerical employees in the Department of Social Services	Local 2492, AFSCME

7. That additionally the Human Services Board, serving Lincoln, Langlade and Marathon Counties, employs non-professional employees, at the North Central Health Care Facilities (Mount View Manor, Sunnyvale Infirmary and Marathon County Health Care Center) who are represented by Local 150, Service and Hospital Employees International Union; and, further that Marathon County and Portage County jointly operate the Central Wisconsin Airport, whose maintenance and custodial employees are represented by Local 446, Teamsters.

8. That the employees covered by the petitions filed herein are employed in County departments separate and apart from those set forth in paragraph 6 and 7, supra; and that said departments are as follows, and the employees therein perform their duties at the locations noted:

Courthouse

County Administrator	Planning
Building and Maintenance	Printing
Children's Court and Shelter	Property Description
Home Services	Register of Deeds
Clerk of Courts	Solid Waste
Corporation Counsel	Surveyor's Office
Emergency Government	Treasurer's Office
Forestry	Veterans Service
Park	Zoning Department

212 River Drive

111 Bellis Street

Commission on Aging

Sheriff

Health and Social Services
Building - Thomas Street

615 Garfield Avenue

Health Department
Social Services Department

UW Dormitory

City Hall

1430 West Street

Personnel Department

Highway Department

Annex Building

Soil and Water
UW Extension

9. That during the course of the hearing herein the parties agreed that the employees occupying the classifications noted in the following departments are to be included in the non-professional voting group (Voting Group 1):

<u>Department</u>	<u>Positions</u>
County Administrator	None
Commission on Aging	Clerical Assistant I Site Manager Van/Bus Driver
Building and Main- tenance	Building Care Lead Worker Heating and Cooling Specialist Building & Maintenance Worker Custodial Worker

<u>Department</u>	<u>Positions</u>
Children's Court and Shelter Home Service	Clerical Assistant II Clerical Assistant I
Clerk of Courts	Court Clerk Clerical Assistant II <u>1/</u> Clerical Assistant I Accounting Assistant I Terminal Operator I
Corporation Counsel	None
County Clerk	Accounting Assistant I Clerical Assistant II Clerical Assistant I
District Attorney	Investigator Clerical Specialist Clerical Assistant II Clerical Assistant I
Emergency Government	Clerical Assistant II
Forestry	None <u>2/</u>
Health	Public Health Nurse Assistant School Health Aide Laboratory Assistant Secretary I E.P.S.D.T. Specialist Clerical Assistant II Clerical Assistant I
Highway Department	None <u>3/</u>
Park	Clerical Assistant II Supply Clerk
Personnel	None
Planning	Clerical Aide Planning Technician
Printing	Printer I Clerical Aide
Property Description	Drafting Technician Clerical Specialist
Register of Deeds	Clerical Assistant II Clerical Assistant I
Sheriff	Clerical Assistant I
Social Services	None

1/ The County would exclude three positions, occupied by Prazuch, Fett and Stroik.

2/ One or more positions are in issue as hereinafter noted.

3/ One or more positions are in issue as hereinafter noted.

<u>Department</u>	<u>Positions</u>
Soil and Water	Conservation Technician Clerical Assistant
Solid Waste	Scalemaster Accounting Assistant I
Surveyor's Office	Clerical Aide
Treasurer	Accounting Assistant I
UW Dormitory	Clerical Assistant I Custodial Worker
UW Extension	Clerical Assistant II Clerical Assistant I
Veterans Service	Clerical Specialist
Zoning	Clerical Assistant II

10. That the parties also agreed that the employees occupying the classifications noted in the following departments are included in the professional voting group (Voting Group 2):

<u>Department</u>	<u>Positions</u>
Children's Court and Shelter Home Service	Dispositional/Intake Worker Asst. Dispositional/Intake Worker Shelter Home Youth Worker
Clerk of Courts	Law Clerk
District Attorney	Assistant District Attorney II Assistant District Attorney I
Highway Department	Civil Engineer II
Planning	Planner II Planner I
Zoning	On-Site Waste Specialist Zoning Technician

11. That the County, contrary to the Union, would exclude the occupants of the following positions from any of the voting groups on the claim noted below:

<u>Department</u>	<u>Position</u>	<u>Claimed</u>
Building and Maintenance	CETA Employes (Blume, Block, Kuechmann, Fochs, Ricketts, Loss, Roth, Londerville, Schulz)	Temporary
Children's Court and Sheltered Home Service	Juvenile Restitution Program Coordinator (Wilder)	Managerial
Clerk of Courts	Secretary I (Konzella)) Clerical Assistant II) (Prazuch, Fett, Stroik))	No community of interest
County Clerk	Payroll & Benefits Coordinator (Scoles)	Confidential
District Attorney	CETA Employee (Herbst)	Temporary

<u>Department</u>	<u>Position</u>	<u>Claimed</u>
Forestry	CETA Employes (Thomson and Chulzes)	Temporary
Health	Clerical Assistant I - Dental Health Project (Tucek)	Temporary
Highway	Accounting Assistant II (Koskey)	Confidential
	Clerical Specialist (Steinke)	Confidential
Parks	Recreational Program Coordinator (CETA) (Ianelli)	Temporary
Planning	CETA Employee (Strehlow)	Temporary
Sheriff	Clerical Assistant II (Rapp)	Confidential
	CETA Employes (Sparbell, McClusky, Kraus)	Temporary
	Clerk (Rogan)	Casual
Veterans Service	CETA Employee (Lister)	Temporary

12. That the County, as noted above, contends that the CETA funded positions are temporary on the claim that the funding for said positions is scheduled to expire and that the individuals occupying same would no longer be employed; that in the latter regard, upon inquiry from the Commission, the County, on October 20, 1981 advised the Commission and the Union, in writing, that the funding for said CETA positions had terminated and that the occupants of said positions had been terminated as follows:

<u>Employee</u>	<u>Termination Date</u>
Gary Blume	June 19, 1981
Gary Block	August 18, 1981
John Kuechmann	September 30, 1981
Bruce Fochs	August 13, 1981
Everett Ricketts	September 3, 1981
Jerome Loss	July 3, 1981
Philip Roth	September 30, 1981
Bonnie Londerville	August 21, 1981
Ed Schulz	September 30, 1981
Teresa Herbst	July 1, 1981
Ron Tomson	September 30, 1981
Stanley Chulzes	September 30, 1981
Joanne Ianelli	August 28, 1981
Virgil Strehlow	August 7, 1981
Rita Sparbell	September 30, 1981
Jill McClusky	August 12, 1981
Joy Kraus	September 30, 1981
Elizabeth Lister	August 5, 1981

13. That in response to the County's letter of October 20, 1981 the Union agreed that all but four of the individuals named above had been terminated but contended that as of November 4, 1981, Ricketts, Roth, Herbst (now Mayer), and Ianelli (now Kelly) were still actively employed.

14. That, as noted in paragraph 11, the County seeks to exclude four positions, assigned to the Clerk of Courts Office, from the non-professional voting group involved herein, on the claim that said positions have a community of interest separate and apart from the other non-professional employees in said voting group; that the positions involved are one Secretary I position, occupied by Jean Kondzela,

and three Clerical II positions, occupied respectively by Mary Prazuch, Julie Fett and Janet Stroik; that the occupants of said positions individually act as personal secretaries to the four Circuit Court Judges serving the County; that, while the primary and direct supervision of said occupants is exercised by said Judges, and although they may be required to work overtime at the direction of their supervising Judge, said occupants are subject to the County's personnel ordinance, are in pay ranges similar or identical to those ranges of employees agreed upon as being included in the non-professional voting group, and receive fringe benefits identical to those received by the latter employees; that other employees working in the Clerk of Courts Office also perform "court" duties, and while doing so are supervised by the Judge involved in the conduct of the trial; that the County has stipulated that seven additional Clerical II positions in the Clerk of Courts Office are properly included in the voting group; and that, while the duties of the four positions involved differ from the duties performed by other secretarial and clerical positions employed in the Clerk of Courts Office in other County departments, such differences in duties and supervision are insufficient to create a community of interest in said positions separate and apart from the other positions in the non-professional voting group.

15. That, as noted above, the County would exclude the Juvenile Restitution Program Coordinator, occupied by Micki Wilder, from any voting group on the claim that she occupies a managerial position; that Wilder has input in the budget of the department in which she is employed, setting forth her anticipated needs and expenditures, which averages approximately ten to twelve dollars per month; that her recommendations in said regard require the approval of her supervisor, as well as the approval of the Juvenile Court Judge; that purchase vouchers executed by her also require the approval of her supervisor, Mr. Anderson; and that Wilder lacks meaningful and sufficient discretion with respect to the formulation of the departmental budget or with respect to expenditures therefrom.

16. That prior to the filing of the petition herein, two County positions, one in the Department of Social Services, and the other in the CETA office, have been excluded from any bargaining unit as confidential employees; that the parties have also agreed to exclude, as confidential employees, the occupants of the following positions:

Secretary - Commission on Aging
Accounting Assistant II - County Clerk
Clerical Specialist - Health
Clerical Specialist - Parks
Secretary I - Planning
Accounting Assistant I - Sheriff
Clerical Specialist - UW Extension;

that, as noted in paragraph 11 above, the County would also exclude the positions of Payroll & Benefits Coordinator (County Clerk's Office), the Accounting Assistant II and Clerk Specialist (both in the Highway Department), Secretary I (Planning Department), and the Clerical Assistant II (Sheriff's Department), on the claim that they perform confidential duties; that the Payroll & Benefits Coordinator is responsible for the issuance of the County payroll, has access to individual payroll deduction information and to employee personnel files; that the Accounting Assistant II maintains Highway Department payroll records, provides payroll information to the County's bargaining team, and that the Clerk Specialist is responsible for the department's typing tasks, including minimal correspondence to agents of the County for the purposes of collective bargaining, including the typing of answers to grievances; that the Secretary I in the Planning Department opens departmental mail, maintains personnel files, types correspondence and reclassification proposals, both involving a de minimis amount of her time; and that the Clerical Assistant II in the Sheriff's Department also opens mail, has access to personnel files,

and types some correspondence relating to labor relations matters; and that none of the occupants of said positions claimed to be confidential employees by the County have any significant access to, or involvement in, confidential matters relating to collective bargaining or labor relations matters.

17. That Mary Rogan, who occupies the position of Clerk in the Sheriff's Department has been employed on a regular, ongoing daily basis for a period of 2 or 3 years; that Rogan has been employed to handle overflow work; that Rogan's position has never formally been established by the County; that Rogan has in the past been notified of her termination three times, though she has never been terminated; and that Rogan enjoys a reasonable expectation of continued employment.

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

CONCLUSIONS OF LAW

1. That employees of Marathon County employed in the following voting groups constitute either two separate and distinct appropriate collective bargaining units, or one single appropriate collective bargaining unit, within the meaning of Sec. 111.70(4)(d) of the Municipal Employment Relations Act (MERA):

Voting Group 1

All regular full-time and regular part-time employees in the employ of Marathon County, excluding "blue collar" employees employed in the Highway and Park Departments; professional employees employed in the Handicapped Children's Education Board, the Health Department, and the Department of Social Services; para-professional and clerical employees in the Department of Social Services; all employees in the CETA Program office; law enforcement personnel in the Sheriff's Department; and also excluding other professional employees, confidential, supervisory and managerial employees.

Voting Group 2

All regular full-time and regular part-time professional employees in the employ of Marathon County, excluding professional employees employed in the Handicapped Children's Education Board, the Health Department, the Department of Social Services, and the CETA Program office, and also excluding confidential, supervisory and managerial employees.

2. That regular full-time or regular part-time employees who occupy CETA funded positions in either of the aforementioned voting groups on the date of this Direction will be deemed eligible to vote in the appropriate election, unless prior to the election, they receive a written notice that they will be permanently terminated from employment within sixty (60) days after the date of the conduct of the elections.

3. That the occupants of the positions of Secretary I, and three Clerical II positions, namely Jean Kondzela, Mary Prazuch, Julie Fett, and Janet Stroik (or their successors), assigned to the Circuit Judges, have a sufficient community of interest with the clerical employees agreed upon by the parties to be included in Voting Group No. 1, so as to be included among the eligibles in said voting group, for the purposes of establishing an appropriate collective bargaining unit within the meaning of Sec. 111.70(4)(d) of MERA.

4. That the position of Juvenile Restitution Program Coordinator in the Children's Court and Sheltered Home Service is occupied by a municipal employee within the meaning of Sec. 111.70(1)(b) of MERA; and that, therefore, the occupant thereof is eligible to participate in the election involving employees in Voting Group 1.

5. That the positions of Payroll & Benefits Coordinator (County Clerk), Accounting Assistant II and Clerk Specialist (both in the Highway Department), Secretary I (Planning Department), and Clerical Assistant II (Sheriff's Department), are occupied by employees within the meaning of Sec. 111.70(1)(b) of MERA; and that, therefore, the occupants thereof are eligible to participate in the election involving employees in Voting Group 1.

6. That Mary Rogan, Clerk I (Sheriff's Department), is not a casual employee, but rather a regular part-time employee within the meaning of Sec. 111.70(1)(b) of MERA; and that, therefore, Mary Rogan, or her successor, is eligible to participate in the election involving employees in Voting Group 1.

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

DIRECTION OF ELECTIONS

That elections by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission, within thirty (30) days from the date of this directive, in the following voting groups for the purposes stated therein:

Voting Group 1

All regular full-time and regular part-time employees in the employ of Marathon County, excluding "blue collar" employees employed in the Highway and Park Departments; professional employees employed in the Handicapped Children's Education Board, the Health Department, and the Department of Social Services; para-professional and clerical employees in the Department of Social Services; all employees in the CETA Program office; law enforcement personnel in the Sheriff's Department; and also excluding other professional employees, confidential, supervisory and managerial employees, who were employed on November 13, 1981, 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 voting desire to be represented, for the purposes of collective bargaining with Marathon County on wages, hours and conditions of employment, by Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO.

Voting Group 2

All regular full-time and regular part-time professional employees in the employ of Marathon County, excluding professional employees employed in the Handicapped Children's Education Board, the Health Department, the Department of Social Services, and the CETA Program office, and also excluding confidential, supervisory and managerial employees, who were employed on November 13, 1981, except such employees as may prior to the election quit their employment or be discharged for cause, for the purposes of determining

- (1) whether a majority of said employees in said voting group desire to be included in a single collective bargaining unit with those eligible employees in Voting Group 1,

and

- (2) whether a majority of such employees voting desire to be represented, for the purposes of collective

bargaining with Marathon County on wages, hours
and conditions of employment, by Wisconsin Council
of County and Municipal Employees, AFSCME, AFL-CIO.

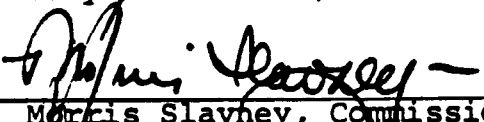
Given under our hands and seal at the
City of Madison, Wisconsin this 13th
day of November, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

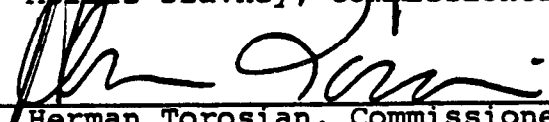
By



Gary L. Covelli, Chairman



Morris Slavney, Commissioner



Herman Torosian, Commissioner

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

The Union, in the instant proceeding, has petitioned the Commission to conduct elections among (1) otherwise eligible non-professional employees of the County, who are not included in any existing collective bargaining unit, to determine whether they desire to be represented by the Union for the purposes of collective bargaining, and (2) whether the otherwise eligible professional employees of the County, who are not now included in any existing collective bargaining unit, desire to be represented by the Union, and whether said professional employees desire to be included in a single collective bargaining unit with said non-professional employees. As noted in the Findings of Fact, employees in both groups are employed in various departments, located and working at various sites in the County.

The County would have expanded on the unit descriptions desired by the Union by including the departments in which the employees involved are employed. The County's purpose in such request is obviously to identify more particularly the unit or units involved. However, the same objective may be attained in a less complicated manner by more fully describing the employees excluded from the unit or units involved, and we have done so. Further, the County urges the Commission to accrete the employees in Voting Group No. 1, provided they select the Union, to the existing unit of non-professional employees of the Department of Social Services. We see no reason for granting such request. The fact that the same parent organization represents the existing unit is no basis for such an accretion.

The Eligibles

During the course of the hearing the parties reviewed the various positions sought by the Union to be included among the eligibles in the two voting groups involved herein, as well as those positions agreed by the parties to be excluded therefrom on the basis of their duties as managerial, supervisory or confidential employees. A number of the positions remain in issue and have required a determination by the Commission. The following tabulation reflects the departments in which those positions that the parties agreed are managerial (m), supervisory (s), and confidential (c), are employed and therefore excluded from the eligibles in either voting group:

<u>Department</u>	<u>Positions Excluded</u>
County Administrator	Administrator (m/s) Secretary I (c)
Commission on Aging	Director (m/s) Senior Citizens Program Coordinator (m/s) Talent Shop Coordinator (m) Secretary I (c)
Building and Maintenance	Director of Building & Facilities (m/s) Building Maintenance Supervisor (s)
Children's Court and Shelter Home Services	Superintendent (m/s) Shelter Home Supervisor (m/s)

<u>Department</u>	<u>Positions Excluded</u>
Clerk of Courts	Clerk of Courts (s) Assistant Clerk of Courts (s) Register in Probate (s) Clerical Specialist (s)
Corporation Counsel	(Department Not Operative)
County Clerk	County Clerk (s) Assistant County Clerk (s) Finance Supervisor (s/c) Accounting Assistant II (c)
District Attorney	District Attorney (s)
Emergency Government	Director (m/s) Deputy Director (m)
Forestry	Administrator (m/s) Snowmobile Trail Coordinator (m)
Health	Health Officer (m/s) Supervisor of Nursing Services (s) Laboratory Supervisor (m/s) Supervisor, EH and S (s) Clerical Supervisor (s) Clerical Specialist (c) Dental Health Project Supervisor (m/s) Dental Hygienist
Highway Department	Commissioner (m/s) Administrative Assistant I (s/c) Highway Engineer (m/s) Shop Supervisor (s) Patrol Superintendent (s) Asst. Patrol Superintendent (s) Construction Foreman II (s) Purchasing Agent (m)
Parks	Director (m/s) Assistant Director (m/s) Superintendent (s) Recreation Supervisor (s) Administrative Assistant II (m/s) Park Forester (m/s) Parks Foreman (s) Horticulture Foreman (s) Park Manager II (m/s) Park Manager I (m/s) Clerk Specialist (c)
Personnel	(All positions excluded on the basis of confidential status)
Planning	Director (m/s) Secretary I (c)
Printing	Printer II (s)
Property Description	Supervisor (s)
Register of Deeds	Assistant Register of Deeds (s)

<u>Department</u>	<u>Positions Excluded</u>
Sheriff	Chief Deputy Sheriff (s) Accounting Assistant I (c) The parties stipulated to exclude the following positions on the basis other than managerial, supervisory or confidential: Corrections Officer Police Communications Specialist
Soil and Water	Conservation Coordinator (m/s)
Solid Waste	Manager (m/s)
Treasurer	Assistant County Treasurer (m/s)
UW Dormitory	Manager (m/s)
UW Extension	Clerical Specialist (s/c)
Veterans Services	Veterans Affairs Officer (s)
Zoning	Zoning Administrator (s)

In paragraph 9 of the Findings of Fact the Commission has set forth the positions which the parties agreed were properly included in Voting Group 1. Added to that list should be the positions which the Commission has concluded are occupied by employees under MERA.

The Voting Procedure

When in an election proceeding a request is made to include professional employees in a single unit with non-professional employees, Sec. 111.70(4)(d) of the Municipal Employment Relations Act requires that the professional employees be given an opportunity to vote to determine whether they desire to be so included. In order to be so included, a majority of the eligible professional employees must vote in favor of such inclusion. Therefore, in this proceeding, the professional employees (Voting Group 2) will be given two ballots, (a) to determine whether they desire to be included in a single unit with non-professional employees (Voting Group 1) and, (b) whether they desire to be represented by the Union. The unit determination ballot will be a separate colored ballot, and the professional employees will be instructed to deposit their unit determination ballots in the ballot box. The professional employees who appear to vote will be previously instructed to place their representation ballots in a furnished blank envelope and to seal such envelope and deposit same in the ballot box.

The unit determination ballots cast by the professional employees will be initially counted, and should a majority of the eligible professional employees vote in favor of being included in the unit of non-professional employees, the sealed envelopes, containing the ballots of the professionals with respect to representation, will be opened and their ballots will be co-mingled with the representation ballots cast by the non-professional employees, and thereafter the tally will include the representation ballots cast by all employees.

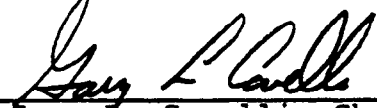
Should a majority of the professional employees eligible not vote in favor of being combined in a unit with non-professional employees, then the professional employees shall constitute a separate unit, and their representation ballots will not be co-mingled with the representation ballots cast by the non-professional employees,

and, therefore, the representation ballots cast by the non-professional and professional employees will be tallied separately to determine separately their choice as to bargaining representative.

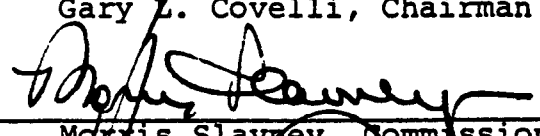
Dated at Madison, Wisconsin this 13th day of November, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By



Gary L. Covelli, Chairman



Morris Slavney, Commissioner



Herman Torosian, Commissioner