

STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

ASSOCIATION OF SPARKS FIRE
DEPARTMENT CLASSIFIED CHIEF
OFFICERS,

Complainant,

-vs-

CITY OF SPARKS,

Respondent.

ITEM NO. 272

CASE NO. A1-045494

DECISION

For the Complainant: John N. Schroeder, Esq.

For the Respondent: C. Robert Cox, Esq.
WALTHER, KEY, MAUPIN, OATS, COX,
LEE & KLAICH

For the EMRB: Howard Ecker, Chairman
Salvatore Gugino, Vice Chairman
Tamara Barengo, Member

STATEMENT OF THE CASE

In a pre-hearing conference held on August 7, 1991, the Complainant, ASSOCIATION OF SPARKS FIRE DEPARTMENT CLASSIFIED CHIEF OFFICERS ("ASSOCIATION"), and Respondent, CITY OF SPARKS ("CITY"), narrowed the issues to the following:

1. Whether or not members of the Association are "firemen"; i.e., salaried employees of a fire prevention or suppression unit organized by a political subdivision of the state and whose principal duties are controlling and extinguishing fires, as referred to in NRS 288.215 and NRS 288.205.

2. Whether or not the impasse procedures

1 applicable to the Association are as set forth in
2 NRS 288.205 and/or NRS 288.215 or, alternatively,
3 as set forth in NRS 288.200.

4 The parties have jointly stipulated to the following
5 facts:

6 1. Complainant, is the Association of Sparks
7 Fire Department Classified Chief Officers
8 ("Association").

9 2. Respondent, is the City of Sparks
10 ("City"), a recognized local government employer
11 as defined by NRS 288.060.

12 3. That Complainant advised Respondent by
13 letter dated January 11, 1991 of the formation of
14 a bargaining unit and selection of a bargaining
15 agent representing certain named management
16 employees of the Sparks Fire Department; i.e.,
17 Will Brown, Thomas A. Clewell, Steve Chapman,
18 Richard Foremaster and Ron Johnson. (Also, Ralph
19 Leighton was subsequently promoted to Battalion
20 Chief.)

21 4. That the aforementioned letter of January
22 11, 1991, also, requested recognition of the
23 Complainant as bargaining agent for employees of
24 the aforementioned bargaining unit.

25 5. That the aforementioned letter of January
26 11, 1991, also, notified Respondent of the
27 Complainant's desire to open negotiations of a
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1 contract for the fiscal year 1991-92.

2 6. That Complainant's aforementioned letter
3 of January 11, 1991, also, notified Respondent of
4 the names, titles, addresses and telephone numbers
5 of the president and secretary-treasurer of the
6 Association.

7 7. That Complainant has delivered to
8 Respondent its Constitution and Bylaws and No
9 Strike Pledge.

10 8. That negotiating sessions have taken
11 place between Respondent and Complainant.

12 9. That the City has informed Complainant
13 that it will recognize the Association as a
14 "bargaining unit" of "administrative and
15 supervisory personnel, none of whom are 'firemen'
16 as defined by NRS 288.215 . . ."

17 On August 14, 1991, the LOCAL GOVERNMENT EMPLOYEE-
18 MANAGEMENT RELATIONS BOARD ("EMRB" and "BOARD") conducted a
19 hearing on the instant Complaint. The BOARD's Discussion,
20 Conclusions of Law, Decision and Order are set forth below.

21 DISCUSSION

22 From the facts stipulated to by the parties, the
23 testimony of witnesses cross-examined at the Hearing and other
24 evidence of record, the Board has determined that the
25 Complaint is meritorious.

26 The legislature has deemed it appropriate to create for
27 firemen and police officers (and more recently for teachers
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1 and educational support personnel) different procedures for
2 resolving contract negotiations which have reached impasse,
3 i.e., NRS 288.205 and NRS 288.215. Under the circumstances,
4 therefore, the Board believes that it would be improper to
5 apply different classes of employees or bargaining units
6 within a fire department, when the primary responsibility of
7 all the employees of said department is to control and
8 extinguish fires.

9 In determining the appropriate bargaining unit(s) for
10 Fire Department employees this BOARD has long held that
11 supervisory and administrative employees such as involved in
12 the instant case have a community of interest with "firemen"
13 or employees involved in a fire prevention or suppression unit
14 organized by a political subdivision of the state and whose
15 principle duties are controlling and extinguishing fires.
16 I.A.F.F., Local 731 and City of Reno, EMRB Item No. 4 (March
17 6, 1972); I.A.F.F., Local 1285 vs. City of Las Vegas, EMRB
18 Item No. 21, Case No. 87304 (December 16, 1974); and
19 Application of Reno Fire Dept. Admin. Assn. for Recognition,
20 EMRB Item No. 185, Case No. A1-045402 (April 17, 1986).

21 From the testimony at the hearing, it is further
22 apparent that these supervisory and administrative employees
23 have received the same training and actually perform many of
24 the same functions as the front-line firemen they supervise.
25 Accordingly, they cannot be considered anything but "firemen"
26 under NRS 288.215.

27 Having determined that the Complainants are indeed
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1 firemen, the Board finds that these supervisors and their
2 bargaining unit are entitled to invoke the provisions of NRS
3 288.205 and 288.215 relating to factfinding and arbitration,
4 and that the procedures set forth under NRS 288.200 are
5 inapplicable to them.

6 FINDINGS OF FACT

7 The BOARD's Findings of Fact are as stipulated to by the
8 parties and set forth in the BOARD's Statement of the Case on
9 pages two (2) through three (3) of this Decision.

10 CONCLUSIONS OF LAW

11 1. That the LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
12 RELATIONS BOARD has jurisdiction over the parties and the
13 subject matter of this Complaint, pursuant to the provisions
14 of NRS Chapter 288.

15 2. That the Complainant, ASSOCIATION OF SPARKS FIRE
16 DEPARTMENT CLASSIFIED CHIEF OFFICERS, is a recognized employe
17 organization as defined by NRS 288.040.

18 3. That the Respondent, CITY OF SPARKS, is a recognized
19 local government employer as defined by NRS 288.060.

20 4. That, for the purpose of NRS 288.205 and/or NRS
21 288.215, the "fire department chiefs" (Battalion Chiefs,
22 Deputy Chiefs and Chief Training Officers) represented by the
23 ASSOCIATION are considered "firemen"; i.e., salaried employees
24 of a fire prevention or suppression unit organized by a
25 political subdivision of the state and whose principal duties
26 are controlling fires.

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1 5. That the impasse procedures set forth in NRS 288.205
2 and/or NRS 288.215 are applicable to the parties.

3 DECISION AND ORDER

4 Upon decision rendered by this BOARD at its meeting on
5 September 27, 1991, it is hereby,

6 ORDERED, ADJUDGED AND DECREED as follows:

7 1. That the relief prayed for in this ASSOCIATION's
8 Complaint is granted to the extent set forth in the BOARD's
9 Conclusions of Law; and

10 2. That each party is to bear its own costs and fees in
11 the above-entitled matter.

12 DATED this 27 day of September, 1991.

13 LOCAL GOVERNMENT EMPLOYEE-
14 MANAGEMENT RELATIONS BOARD

15 By Howard Ecker

16 HOWARD ECKER, Chairman

17 By Salvatore Gugino

18 SALVATORE GUGINO, Vice Chairman

19 By Tamara Barengo

20 TAMARA BARENGO, Member
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