

1 STATE OF NEVADA
2 LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
3 RELATIONS BOARD
4

5 STOREY COUNTY FIREFIGHTERS
6 ASSOCIATION, IAAF LOCAL 4227,

7 Complainant,

8 vs.

9 STOREY COUNTY,

10 Respondents.

)
) ITEM NO. 727

)
) CASE NO. A1-045979

)
) **ORDER**

11 For Complainant: Michael W. Dyer, Esq. and J. Daniel Yu, Esq.
Dyer, Lawrence, Penrose, Flaherty, Donaldson & Prunty

12 For Respondent: Mark H Gunderson, Esq. and Austin K. Sweet, Esq.
Gunderson Law Firm

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14 This matter came on before the State of Nevada, Local Government Employee-
15 Management Relations Board ("Board"), for consideration and decision pursuant to the
16 provisions of the NRS and NAC chapters 288, NRS chapter 233B, and was properly noticed
17 pursuant to Nevada's open meeting laws.

18 Respondent Storey County filed a Motion to Dismiss and Request for Attorneys' Fees
19 asking that the Board dismiss the Complaint because Complainant had not exhausted its
20 contractual obligations. The County asserts that the Association has filed grievances that concern
21 the same subject matter as the Complaint filed before the Board in this case and included, as
22 exhibit 1 to its motion, copies of the filed grievances. The Association does not dispute that the
23 grievances discussed by the County have, in fact, been filed. Thus, it appears as through the
24 contractual remedies have not been exhausted, and are currently pending. The failure to exhaust
25 the contractual remedies, including the grievance process and arbitration, is one basis for
26 dismissing a complaint before the Board, although dismissal is not mandatory. NAC 288.375(2).

27 The preferred method for resolving disputes is through the bargained-for grievance
28 process, and we apply NAC 288.375(2) liberally to effectuate that purpose. See NAC 288.040.

1 Previously, this Board has stayed the proceedings in similar situations to allow the parties to
2 proceed through the grievance process. *e.g.*, International Association of Firefighters, Local 731
3 v. City of Reno, EMRB Case No. A1-045918, Item No. 670 (July 16, 2008). If that grievance
4 then proceeds to the level of arbitration, this Board will defer to the arbitrator's decision subject
5 to certain exceptions as set forth in City of Reno v. Reno Police Protective Ass'n, 118 Nev. 889,
6 59 P.3d 1212 (2002).

7 Given the circumstances of this case, we decline to dismiss the case, but believe that a
8 stay is appropriate to provide the parties with an opportunity to proceed through the bargained-
9 for grievance process. The stay will be imposed for 90 days, and we request that the Association
10 provide us with a report advising us of the status of the grievance proceedings at the conclusion
11 of the stay.

12 It is therefore ordered that Respondent's Motion to Dismiss and Request for Attorneys'
13 Fees is Denied;

14 It is further ordered that all proceedings in this matter are stayed for a period of 90 days
15 from the date of this Order;

16 It is further ordered that Complainant shall provide the Board with a status report at the
17 conclusion of the 90-day stay.

18 DATED this 28th day of June, 2010.

19 LOCAL GOVERNMENT EMPLOYEE-
20 MANAGEMENT RELATIONS BOARD

21 BY: 
22 SEATON J. CURRAN, ESQ., Chairman
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CASE NO. A1-045979

NOTICE OF ENTRY OF ORDER

11 To: Michael W. Dyer, Esq. and J. Daniel Yu, Esq.
12 Dyer, Lawrence, Penrose, Flaherty, Donaldson & Prunty

13 To: Mark H Gunderson, Esq. and Austin K. Sweet, Esq.
14 Gunderson Law Firm

15 PLEASE TAKE NOTICE that an ORDER was entered in the above-entitled matter on
16 June 28th, 2010.

17 A copy of said order is attached hereto.

18 DATED this 28th day of June, 2010.

19 LOCAL GOVERNMENT EMPLOYEE-
20 MANAGEMENT RELATIONS BOARD

21 BY _____
22 ANDY ANDERSON, Commissioner
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1 **CERTIFICATE OF MAILING**

2 I hereby certify that I am an employee of the Local Government Employee-Management
3 Relations Board, and that on the 28th day of June, 2010, I served a copy of the foregoing
4 ORDER by mailing a copy thereof, postage prepaid to:

5 Mark H. Gunderson, Esq.
6 Austin K. Sweet, Esq.
7 Gunderson Law Firm
8 3895 Warren Way
9 Reno, NV 89509

10 Michael W. Dyer, Esq.
11 J. Daniel Yu, Esq.
12 Dyer, Lawrence, Penrose, Flaherty, Donaldson & Prunty
13 2805 Mountain Street
14 Carson City, NV 89703

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ANDY ANDERSON, Commissioner