

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

In the Matter of the Request for)
 a Declaratory Ruling by the)
) Case No. Al-045279
 CITY OF SPARKS.)
 _____)

DECISION

On October 10, 1974, the City of Sparks filed a petition for a declaratory ruling regarding the validity of the City's 1973 pay resolution. The International Association of Firefighters, Local 1265, and the Sparks Police Protective Association, through their counsel, responded to the petition. Pursuant to Board General Rule 4.05, we deemed the petition a "contested case" and heard the case on April 21, 1975.

In 1972, the City adopted a pay resolution which created a number of pay ranges and within each range six steps; each step represented a 4.95% increase over the next lower step. The 4.95% increases, although specified to be discretionary with the supervisor and the City Manager, were, in almost every instance, granted an employee on his or her anniversary date each year.

Based upon a rather informal report of Mr. O.T. Devine, the City, in 1973, adopted a new pay resolution which abolished the six steps within a range and replaced them with 26 steps, each such step equal to an approximate 1% increase. Under the new resolution the yearly increase granted on one's anniversary date could range from 0% for a "poor" or "fair" rating to 6% for an "excellent" rating. A computer printout provided by the petitioner indicates that the average percentage increase granted to the employees under the new resolution was 3.94% in 1973 and 1.74% in 1974.

Although the petitioner asserts that the implementation of the pay resolution was a management prerogative, and seeks a declaratory ruling to that effect, the respondents contend that the new pay resolution alters their wages and must therefore be the subject of negotiation between the parties, not a unilateral action by the employer-petitioner.

We agree with the respondents. The newly enacted amendments to NRS 288.150 make "salary or wage rates or other forms of direct monetary compensation" a subject of "mandatory bargaining." See Stats. of Nev., 1975, ch. 539, §15(2)(a), pps._____. Under the statute prior to the amendments the area of wages was likewise negotiable.

The percentage of annual merit increase one is entitled to upon completion of a year of satisfactory service is a portion of one's salary and wages and is direct monetary compensation. An individual entering the employ of the City prior to the new pay resolution could expect, upon completion of a year within which he or she showed an acceptable level of competence, to receive the 4.95% increase and "top out" within the given pay range in six years. Under the new pay resolution the vast majority of employees received far less than a 4.95% increase, some received no increase whatsoever.

The merit increases that an employee is entitled to receive each year upon the completion of satisfactory service is a form of "direct monetary compensation," an integral part of the salary schedule and the mandatory subject of bargaining between the parties. The criteria the employer may use in determining whether or not to grant such merit increases are a matter of management prerogative. However, we note that the relationship between employer and employees would be well served if such advancement criteria were the subject of discussion pursuant to Stats. of Nev., 1975, ch. 539, §15(6), pps._____.

FINDINGS OF FACT

1. That the petitioner, the City of Sparks, is a local government employer.
2. That the respondents, Sparks Police Protective Association and International Association of Firefighters, Local 1265, are local government employee organizations recognized by the petitioner as the exclusive bargaining agents for certain employees in the City of Sparks Fire and Police Departments.

3. That in 1972 the petitioner adopted a pay resolution which established a number of ranges and within each range were six steps, each step representing a 4.95% increase over the next lower step.

4. That under the 1972 pay resolution an employee on his anniversary date each year could receive the 4.95% salary increase at the discretion of his or her supervisor and the City Manager.

5. That during the period of time that the 1972 pay resolution was in effect the vast majority of employees in the International Association of Firefighters, Local 1265, and the Sparks Police Protective Association received the 4.95% merit increase.

6. That in 1973 the petitioner adopted a new pay resolution which abolished the six steps and established in lieu thereof twenty six steps within each range each equal to an approximate 1% increase over the next lower step.

7. That the merit increases under the 1973 pay resolution were based upon a rating system; a rating of "poor" to "fair" would result in no merit increase on the anniversary date while the highest rating of "excellent" would result in a 6% merit increase.

8. That under the 1973 pay resolution the average percentage increase granted the employees was 3.94% in 1973 and 1.74% in 1974.

CONCLUSIONS OF LAW

1. That under the provisions of Chapter 288 of the Nevada Revised Statutes the Local Government Employee-Management Relations Board possesses original jurisdiction over the parties and subject matter of this petition for declaratory ruling.

2. That the petitioner, City of Sparks, is a local government employer within the term as defined in NRS 288.060.

3. That the International Association of Firefighters, Local 1265, and the Sparks Police Protective Association are local government employee organizations within the term as defined in Stats. of Nev., 1975, ch. 539, §11, pps.-----

4. That the International Association of Firefighters, Local 1265, and the Sparks Police Protective Association are recognized by the petitioner as the exclusive bargaining agents for certain employees of the City of Sparks Police and Fire Departments.

5. That the merits increase one is entitled to upon completion of a period of satisfactory service is a mandatory subject of bargaining pursuant to Stats. of Nev., 1975, ch. 539, §15(2)(a), pps._____.

6. That the criteria the City may use in determining whether or not to grant merit increases are a matter of management prerogative pursuant to Stats. of Nev., 1975, ch. 539, §15(3)(c), pps._____, and would therefore be a proper subject for discussion pursuant to Stats. of Nev., 1975, ch. 539, §15(6), pps._____.

The petition is denied and the parties directed to proceed in conformity with this decision.

Dated this 19th day of August, 1975.



Chris N. Karamanos, Board Chairman



John T. Gojack, Board Vice Chairman



Dorothy Eisenberg, Board Member