

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

State of Nevada

The City of Sparks,)	
a municipal corporation,)	
)	
Complainant)	
)	
vs.)	Case No. A1-045332
)	
International Association of)	
Firefighters, Local No. 1265)	
)	
Respondent)	
)	

DECISION

On Friday, May 30, 1980, the Local Government Employee-Management Relations Board held a hearing in the above matter; the hearing was properly noticed and posted pursuant to Nevada's Open Meeting Law.

This written Decision is prepared in conformity with NRS 233B.125 which requires that the final Decision contain Findings of Fact and Conclusions of Law separately stated.

By Complaint filed April 22, 1980, the City of Sparks (hereinafter City) alleges that the actions of The International Association of Firefighters, Local No. 1265 (hereinafter IAFF) during 1980 contract negotiations constitute: a violation of its duty to bargain collectively in good faith under NRS 288.033; a refusal to bargain collectively in good faith under subsection 2(b) of NRS 288.270; and a failure to comply with NRS 288.110(1) sic (288.150(1)). The City seeks an Order to compel the IAFF to bargain in good faith and to limit the items for 1980-81 negotiations to those mandatory collective bargaining items as proposed by the parties as of March 19, 1980.

In addition to denying the allegations set forth by the Complainant the Respondent asserts that the City waived any rights to complain because the City continued to actively negotiate with the Respondent. The IAFF asserts that, by so doing the City is estopped from raising such issues.

Testimony and documentary evidence adduced at the May 30, 1980 hearing revealed that the IAFF, pursuant to NRS 288.180, submitted its written notice of intent to negotiate with the City on January 25, 1980. During a period of time between January 30, 1980 and April 7, 1980, the City and the IAFF conducted several bargaining sessions.

On February 29, 1980, the IAFF submitted a written list containing twelve (12) items for negotiation along with its proposed ground rules. At this bargaining session the City submitted a list of six (6) items for negotiation along with its proposed ground rules. At no time did either party ever agree to the others' proposed ground rules!

On March 19, 1980, the IAFF submitted a list of revised proposals of the items for negotiation along with a response to the City's list of items for negotiation presented at the February 29, 1980 session. No agreement was reached with respect to either party's proposals.

The specific action which gave rise to this Complaint stemmed from the meeting of the parties on April 7, 1980, wherein the IAFF submitted a revised negotiation package to the City which contained items of negotiation that had been withdrawn at the March 19, 1980 session as well as items for negotiation that had not been previously submitted for collective bargaining.

With this background in mind, the Board finds no evidence that the IAFF violated its duty to bargain collectively in good faith as provided in NRS 288.033 and NRS 288.270(2)(b). It is readily apparent that commencing with the close of the March 19, 1980 negotiating session, and proceeding through the time of the IAFF's revised offer of April 7, 1980, the negotiations had become stalled. While both parties were willing to meet, and continued to meet, little progress was made toward reaching an agreement. However, the Board candidly believes that the revised demands package put on the table by the IAFF on April 7, 1980, was merely an attempt to move the negotiations from dead center.

Making a proposal in negotiations or changing issues over which deadlock has been achieved and continues are, in the opinion of this Board, lawful actions which may be deemed necessary to end the dispute.

This is not an action of "moving the target" during bargaining or as the moment of agreement approaches, as set forth in the case, Sunnyside Valley Irrigation District, Decision No. 314 PECB (Wash 1977), cited by the City.

Nor is it conduct without any showing of outside factors influencing its action. Sunnyside, Id. The factor influencing the IAFF's action in the instant matter was the recognition of a stalemate in the bargaining process.

In reaching its decision the Board also considered the fact that no evidence whatsoever was established to show that subsequent to March 19, 1980, the City had presented its own proposals in an attempt to move the negotiations off dead center.

In fact the record is barren of evidence of any counterproposals emanating from the City following this time period.

Undoubtedly, the lack of mutually agreed upon rules hampered the negotiations process. See NRS 288.190. Nevertheless, while negotiations were clearly stalled, we cannot conclude that either party was guilty of bad faith bargaining. See Reno Municipal Employees Association v City of Reno, Case No. Al-045326, Item No. 93, January 11, 1980; In the Matter of Clark County Classroom Teachers Association v Clark County School District, et al., Case No. Al-045302, Item No. 62, December 10, 1976, rehearing denied, January 6, 1977; and In the Matter of the White Pine Association of Classroom Teachers vs. White Pine County Board of School Trustees, Case No. Al-045288, Item No. 36, May 30, 1975.

With regard to the City's request to limit the areas of negotiation to those mandatory collective bargaining items as proposed by the parties as of March 19, 1980 the Board, having determined that the IAFF's proposals of April 7, 1980 were a legitimate effort to breathe new life into suffocating negotiations, declines to issue such an Order.

However, the Board notes that the IAFF's proposal regarding "promotional requirements" as set forth in their proposal of March 19, 1980 (Hearing Exhibit "G" p. 2) is not a subject of Mandatory bargaining, NRS 288.150. Further the IAFF's proposal regarding "Rules and Regulations" ¹ as presented April 7, 1980

Footnote No. 1: The "Rules and Regulations" provides the following: It is mutually agreed between the City and the Union that both parties shall meet and confer within twelve (12) months from the date of this agreement in a combined effort to revise and update the Manual of Standard Operating Procedures, Departmental Orders and Rules and Regulations.

(hearing Exhibit "I" p. 11) is not a mandatory subject for negotiation. NRS 288.150.

Accordingly the City is under no obligation to negotiate these two proposals; however, it shall discuss these subjects. NRS 288.150(6). The Board also reminds the parties that pursuant to their present agreement (1979-80, specifically Article 29(e)) no existing benefit may be reduced below its present level except by negotiation.

In so resolving the dispute the Board expressly reserves ruling on the waiver-estoppel argument as raised by the Respondent IAFF.

FINDINGS OF FACT

1. That the Complainant, City of Sparks, is a local government employer.
2. That the Respondent, International Association of Firefighters, Local No. 1265, is a local government employee organization.
3. That the IAFF submitted its written notice of intent to negotiate with the City on January 25, 1980.
4. That on February 29, 1980 the IAFF submitted a written list containing twelve (12) items for negotiation along with its proposed ground rules.
5. That on February 29, 1980, the City submitted a written list of six (6) items for negotiation along with its proposed ground rules.
6. That at no time did the parties agree to the others' proposed ground rules.
7. That on March 19, 1980 the IAFF submitted a list of revised proposals for negotiation along with a response to the City's February 29, 1980 list of items for negotiation.

8. That the parties were unable to reach agreement with respect to each others proposals.
9. That on April 7, 1980 the IAFF submitted a revised negotiation package which contained items of negotiation that had been withdrawn at the March 19, 1980 session as well as items for negotiation that had not been submitted previously.
10. That the negotiations became stalled between March 19, and April 7, 1980 and that the IAFF's proposals of April 7, 1980 were an attempt to move the negotiations from dead center.
11. That the record is barren of any proposals or counter-proposals by the City during the March 19 - April 7 time period to resolve the dispute.

CONCLUSIONS OF LAW

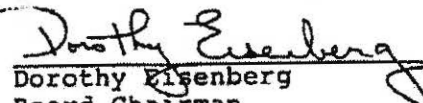
1. That pursuant to the provisions of Nevada Revised Statutes Chapter 268, the Local Government Employee-Management Relations Board possesses original jurisdiction over the parties and subject matter of this Complaint.
2. That the Complainant, City of Sparks, is a local government employer within the terms as defined in NRS 288.060.
3. That the Respondent, International Association of Firefighters, Local No. 1265, is a local government employee organization within the terms as defined in NRS 288.040.
4. That the IAFF submitted its written notice of intent to negotiate with the City on January 25, 1980 pursuant to NRS 288.180.


5. That the parties failed to establish mutually agreed upon ground rules to govern the negotiations process. NRS 288.190.
6. That the failure to reach an agreement as of March 19, 1980 created a situation of stalled negotiations.
7. That the IAFF attempted to move the negotiations from dead center via its proposals of April 7, 1980.
8. That the evidence presented at the hearing of May 30, 1980 reflected no violations of the duty to bargain collectively in good faith. NRS 288.033 and NRS 288.270(2)(b).
9. That the "Promotional Requirements" proposal of the IAFF is not a subject of mandatory bargaining. NRS 288.150.
10. That the IAFF's proposal regarding "Rules and Regulations" is not a mandatory subject of negotiation. NRS 288.150.
11. That the City is under no obligation to negotiate the Promotional Requirement or Rules and Regulations as proposed by the IAFF; however, it shall discuss these subjects. NRS 288.150(6).
12. That the actions of the IAFF complied with the relevant statutes of the State of Nevada, including, but not limited to the Local Government Employee-Management Relations Act. NRS Chapter 288.

The requested relief is denied and the Complaint dismissed. Each party shall bear its own costs and attorney's fees.

Dated this 15th day of September, 1980.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

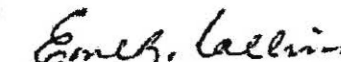

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