

STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

CITY OF YERINGTON,)	ITEM NO. 289
)	
Petitioner,)	CASE NO. A1-045511
)	
-vs-)	<u>DECLARATORY ORDER</u>
)	
YERINGTON POLICE OFFICERS)	
ASSOCIATION,)	
)	
Respondent.)	

For Petitioner: John S. Hill, Esq.
YERINGTON CITY ATTORNEY

For Respondent: Bill Maniaci, Bargaining Agent
YERINGTON POLICE OFFICERS ASSN.

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

The CITY OF YERINGTON ("City") has petitioned the Local Government Employee-Management Relations Board ("Board") for a Declaratory Order affirming the following:

1. A nonprofit association formed pursuant to NRS Chapter 81.350 for the purpose of civic or community functions, specifically, The Yerington Police Officers Association, is not an appropriate vehicle to serve as a collective bargaining unit.

2. A nonprofit association formed pursuant to Chapter 81.350 for the purposes of civic or community functions, specifically, The Yerington Police Officers Association, upon which the Mayor of the City of Yerington, the City Manager of the

1 City of Yerington and City Attorney of the City of
2 Yerington serve as honorary members is not an
3 appropriate vehicle to serve as a collective
4 bargaining unit.

5 3. If the nonprofit association formed
6 pursuant to NRS Chapter 81.350 for the purposes of
7 civic or community functions, specifically, The
8 Yerington Police Officers Association, is an
9 appropriate vehicle to serve as a collective
10 bargaining unit, then only certain members of the
11 Yerington Police Department should be eligible to
12 belong to that organization.

13 Overall statutory interpretation is ultimately a matter
14 of law within the province of the courts. However, this Board
15 is vested with the primary authority for defining the terms of
16 NRS Chapter 288. In exercising the authority with which we
17 are vested, and pursuant to its deliberations on April 23,
18 1992, the Board finds as follows:

19 NRS 288.027 defines "Bargaining agent" as "an employee
20 organization recognized by the local government employer as
21 the exclusive representative of all local government employees
22 in the bargaining unit for purposes of collective bargaining."
23 In its application for recognition the Yerington Police
24 Officers Association stated that its members "have formed a
25 Bargaining Unit for the purpose of contractual negotiations
26 with the City of Yerington as the sole representative of the
27 members of that Bargaining Unit." Based on these
28

1 representations, it appears that the Yerington Police Officers
2 Association is eligible for recognition "as the exclusive
3 representative of all local government employees in the
4 bargaining unit for purposes of collective bargaining."

5 NRS 288.028 defines "Bargaining unit" as "a group of
6 local government employees recognized by the local government
7 employer as having sufficient community of interest
8 appropriate for representation by an employee organization for
9 the purpose of collective bargaining." In its application for
10 recognition the Yerington Police Officers Association
11 indicated that the members of the "bargaining unit" are Rod
12 Pellegrini, C. Rick Smith, Robert Stack, Bill Maniaci, Ed
13 Salcido and Mark Blanco. In the City Attorney's letter dated
14 January 17, 1992, to the Local Government Employee-Management
15 Relations Board (referred to supra as the "Board"), he
16 indicates that Rod Pellegrini is a Sergeant, Rick Smith is a
17 Corporal and the remaining members of the bargaining unit
18 (Robert Stack, Bill Maniaci, Ed Salcido and Mark Blanco) are
19 "patrolpersons". In the job descriptions attached to its
20 "POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR DECLARATORY
21 ORDER" the City of Yerington indicates that the Sergeant's and
22 the Corporal's duties are primarily administrative and
23 supervisory in nature. However, after a thorough review of
24 the job descriptions, the Board has concluded that the
25 Sergeant and Corporal perform a mixture of duties and
26 responsibilities, the majority of which appear to be duties
27 which a typical police officer (patrolperson) would be
28

1 expected to perform. Those duties create an overriding
2 community of interest with other police officers to the degree
3 that they should be members of the same bargaining unit. It
4 appears, therefore, that Sergeant Pellegrini, Corporal Smith
5 and Patrolpersons Stack, Maniaci, Salcido and Blanco possess
6 the requisite community of interest to constitute an
7 appropriate bargaining unit pursuant to NRS 288.170.

8 NRS 288.040 defines "Employee organization" as "an
9 organization of any kind having as one of its purposes
10 improvement of the terms and conditions of employment of local
11 government employees." (Emphasis added.) "Improvement of the
12 terms and conditions of employment of local government
13 employees" as a purpose is implicit in the application for
14 recognition filed by the Yerington Police Officer
15 Association.

16 NRS 288.160(1) and (2) read as follows:

17 1. An employee organization may apply to a
18 local government employer for recognition by
19 presenting:

20 (a) A copy of its constitution and bylaws, if
21 any;

22 (b) A roster of its officers, if any, and
23 representatives; and

24 (c) A pledge in writing not to strike against
25 the local government employer under any
26 circumstances.

27 A local government employer shall not recognize as
28 representative of its employees any employee
organization which has not adopted, in a manner
valid under its own rules, the pledge required by
paragraph (c).

2. If an employee organization, at or after
the time of its application for recognition,
presents a verified membership list showing that
it represents a majority of the employees in a
bargaining unit, and if the employee organization
is recognized by the local government employer, it
shall be the exclusive bargaining agent of the

1 local government employees in that bargaining
2 unit.

3 It appears that in its application for recognition the
4 Yerington Police Officers Association has met all of the
5 requirements of the above provision(s).

6 In view of that stated in the foregoing, the Board finds
7 that the application for recognition filed by the Yerington
8 Police Officers Association is proper and appropriate under
9 the provisions of NRS Chapter 288 heretofore cited. We make
10 no determination as to whether a non-profit association
11 (organization) formed under NRS Chapter 81.350 can serve as an
12 appropriate vehicle for a collective bargaining unit, or
13 whether such an association (organization) is an appropriate
14 vehicle for such a bargaining unit "when the Mayor, the City
15 Manager and City Attorney are honorary members of that
16 organization". NRS Chapter 288 does not address such matters,
17 and the Board does not deem it necessary or appropriate to
18 address same in order to reach a conclusion as to the
19 propriety of the subject application for recognition under the
20 provisions of NRS Chapter 288.

21 For the reasons set forth herein the Board

22 HEREBY DECLARES AND ORDERS that:

23 1. The application for recognition filed by the
24 Yerington Police Officers Association, pursuant to NRS
25 288.160(1) and (2), is proper and appropriate, in view of that
26 provided in NRS 288.027, NRS 288.028 and NRS 288.040;

27 2. The Sergeant, Corporal and Patrolpersons named in
28 the application for recognition possess the sufficient

1 community of interest to constitute an appropriate bargaining
2 unit under NRS 288.170;

3 3. The City of Yerington is obligated, pursuant to NRS
4 288.160(1) and (2) to recognize the Yerington Police Officers
5 Association as the exclusive bargaining agent for employees in
6 the bargaining unit consisting of sergeant(s), corporal(s) and
7 patrolpersons;

8 4. The City of Yerington is obligated pursuant to the
9 Association's request of January 15, 1992 (see application for
10 recognition), ". . . that contractual negotiations begin
11 promptly . . ." to immediately commence collective bargaining,
12 pursuant to NRS 288.180(1), (2) and (3); and

13 5. Each party shall bear its own fees and costs in the
14 above-captioned matter.

15 DATED this 23 day of April, 1992.

16 LOCAL GOVERNMENT EMPLOYEE-
17 MANAGEMENT RELATIONS BOARD

18 By 
19 HOWARD ECKER, Chairman

20
21 By 
22 SALVATORE C. GUGINO, Vice Chairman

23 By 
24 TAMARA BARENGO, Member
25
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