

STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

CARSON CITY FIRE FIGHTERS
ASSOCIATION, I.A.F.F. LOCAL # 2251,

Complainant,

-vs-

CARSON CITY and THE CARSON CITY
BOARD OF SUPERVISORS,

Respondents.

ITEM NO. 345

CASE NO. A1-045569

DECLARATORY ORDER

For Complainant: Sandra G. Lawrence, Esq.
DYER, McDONALD, & LAWRENCE

For Respondents: Charles P. Cockerill, Esq.
BISCHOF, HUNGERFORD, & WITTY

STATEMENT OF THE CASE

Complainant has petitioned the Board for a determination as to whether its proposals regarding: (1) staffing of the Hazardous Materials Response Unit (the "Hazmat Unit"), (2) the payment of ambulance fees for employees and their dependents, and (3) the placement of I.A.F.F. emblems and flags at the City's fire stations, are mandatory bargaining subjects pursuant to NRS 288.150 (2). Also, did the City's refusal to bargain regarding staffing of the Hazmat Unit constitute bad faith bargaining in violation of NRS 288.270 (1) (e)?

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DISCUSSION

I.

STAFFING OF THE "HAZMAT
UNIT" IS A MANDATORY
BARGAINING SUBJECT

The Respondents contend that they are statutorily prohibited from negotiating with respect to staffing or manning of the Hazmat Unit. The Board does not agree. The OSHA regulations and other statutes alluded to by the Respondents provide "minimum standards" insofar as staffing of the Hazmat Unit. They do not preclude negotiation of staffing in excess of such minimum standards. Consequently, negotiation of staffing in excess of said minimum standards pursuant to NRS 288.150 (2) has not been preempted by State or Federal Law. Washoe County Sheriff's Deputies Association, Inc., Et. al. and I.A.F.F. Local 2487 (Intervenor) vs. County of Washoe, Case No. A1-045479, Item No. 271 (1991).

This Board has previously held that there is "no question that fire fighting is a very hazardous job and that the safety of fire fighters can be affected by the number of men assigned to the unit," and that while "NRS 288.150 (3) (c) (1) gives management the right to determine appropriate staffing levels . . . it contains one important exception, and that is for 'safety considerations'. . . ." Truckee Meadows Fire Protection District v. International Association of Fire Fighters, Local 2487, Case No. A1-045400, Item No. 196 (1987). For the same reasons, the Board finds that staffing of the

1 Hazmat Unit is significantly related NRS 288.150 (2) (r),
2 "Safety of the employee", and, therefore, it is a mandatory
3 bargaining subject.
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5 II.

6 **THE PAYMENT OF AMBULANCE**
7 **FEES IS A MANDATORY**
8 **BARGAINING SUBJECT**

9 The Petitioner has proposed that an article be added to
10 the parties' successor agreement, providing "Any employee or
11 their dependents will not be billed for any ambulance fees not
12 covered by insurance." Respondents have refused to negotiate
13 regarding this issue on the premise that neither the City
14 Municipal Code (CCMC 5.18.040), which established the fee, nor
15 NRS 354.517, under which the enterprise fund was created to
16 partially fund such services, contain provisions for waiving
17 ambulance fees.

18 The essence of Petitioner's proposal is that the
19 employees and their dependents should not be required to pay
20 for ambulance fees. Whether this is accomplished by waiver of
21 the fees, reimbursement of the fees, or by Respondent paying
22 the fees would not appear to be relevant to the Board's
23 determination. The payment of such fees clearly constitutes
24 a form of direct monetary compensation such as incentive pay,
25 clothing allowances, reimbursement for repair or replacement
26 of personal property, etc. Additionally, the payment of
27 ambulance fees may logically and reasonably be considered as
an extension of "Insurance benefits." For these reasons, the

1 Board finds that the payment of ambulance fees is a mandatory
2 bargaining subject by virtue of being significantly related to
3 NRS 288.150 (2) (a) "Salary or wage rates or other forms of
4 direct monetary compensation", and NRS 288.150 (2) (f)
5 "Insurance benefits."

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III.

THE PLACEMENT OF I.A.F.F.
EMBLEMS AND FLAGS AT THE CITY'S
FIRE STATIONS IS NOT A MANDATORY
BARGAINING SUBJECT

The Petitioner has proposed that the recognition clause of the collective bargaining agreement be revised to provide: "Recognition shall include the placement of I.A.F.F. stickers on all Fire Apparatus, and the placement of an I.A.F.F. Flag at all stations of the Carson City Fire Department." The Respondent(s) refused to negotiate regarding this proposal on the premise that it is not within the scope of mandatory bargaining.

After due deliberation the Board has determined that no basis exists for concluding that in adopting NRS 288.150 (2) (j), the legislature intended that the placement of union emblems and flags would be subject to negotiation as part of a "Recognition clause." The placement of union emblems and flags is not significantly related to recognition. Conversely, it is not specifically reserved to the employer under the provisions of NRS 288.150 (3), (4), (5), or (6). Accordingly, the placement of emblems and flags on city equipment and/or property must be considered as a "permissive"

1 subject which does not fall within the scope of mandatory
2 bargaining. Kit Mfg. Co., 150 NLRB 662, 58 LRRM 1140 (1964),
3 enforced, 365 F2d 829, 62 LRRM 2856 (CA 9, 1966).

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5 IV.

6 THE CITY (RESPONDENTS) COMMITTED
7 A PROHIBITED PRACTICE WHEN IT REFUSED
8 TO NEGOTIATE REGARDING STAFFING
9 OF THE HAZMAT UNIT

10 The Board finds that the City's refusal to negotiate
11 regarding staffing of the Hazmat Unit (on the premise that
12 such negotiations have been preempted by Federal and State
13 Laws) constitutes a prohibited practice. Notwithstanding the
14 employer's motive, a refusal to bargain regarding mandatory
15 bargaining subjects is "per se" a violation of NRS 288.270 (1)
16 (e), which requires that local government employers bargain
17 collectively in good faith regarding the mandatory bargaining
18 subjects set forth in subsection 2 of NRS 288.150. Mineral
19 County Public Safety Dispatchers Association vs. Board of
20 County Commissioners of Mineral County and Mineral County,
21 Nevada, Case No. A1-045482, Item No. 265 (1991).

22 CONCLUSIONS OF LAW

23 1. That the Local Government Employee-Management
24 Relations Board has jurisdiction over the parties and the
25 subject matter of this Petition, pursuant to the provisions of
26 NRS Chapter 288.

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2. That the Petitioner, Carson City Fire Fighters Association, I.A.F.F. Local #2251, is a recognized employee organization as defined by NRS 288.040.

3. That the Respondents, Carson City and The Carson City Board of Supervisors, are local government employers as defined by NRS 288.060.

4. That the staffing of the Hazardous Materials Response Unit (The "Hazmat Unit") is a mandatory bargaining subject by virtue of being significantly related to NRS 288.150 (2) (r), "Safety of the Employees."

5. That the payment of ambulance fees of the employees and their dependents is a mandatory bargaining subject by virtue of being significantly related to NRS 288.150 (2) (a), "Salary or wage rates or other forms of direct monetary compensation" and NRS 288.150 (2) (f), "Insurance benefits."

6. That the placement of I.A.F.F. emblems and flags on City equipment and/or property is not significantly related to recognition and, therefore, is not a subject of mandatory bargaining, pursuant to the provisions of NRS 288.150 (2)a

7. That Respondents' refusal to negotiate regarding the Petitioner's proposal on staffing of the Hazmat Unit constitutes a refusal to bargain in good faith and a violation of NRS 288.270 (1) (e).

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ORDER

For the reasons set forth herein, the Board hereby ORDERS AND DECLARES that Petitioner's proposals regarding staffing of the Hazmat Unit and payment of ambulance fees of employees and their dependents are subjects of mandatory bargaining, and the placement of union emblems and flags is not a subject of mandatory bargaining.


IT IS FURTHER ORDERED that each party shall bear its own costs and attorney's fees in the above-captioned matter.

DATED this 29th day of November, 1994.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

By 
SUSAN L. JOHNSON, Chairman

By 
SALVATORE G. CUCCINO, Vice Chairman

By 
TAMARA BARENGO, Board Member