

STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

CITY OF NORTH LAS VEGAS,

Complainant,

vs.

NORTH LAS VEGAS POLICE
SUPERVISORS ASSOCIATION,

Respondents.

ITEM NO. 759

CASE NO. A1-046014

NORTH LAS VEGAS POLICE
SUPERVISORS ASSOCIATION,

Complainant,

vs.

CITY OF NORTH LAS VEGAS; NORTH
LAS VEGAS POLICE DEPARTMENT;
POLICE CHIEF JOSEPH CHRONISTER;
DEPUTY POLICE CHIEF VICTOR DUNN;
ACTING CITY MANAGER MARYANN
USTICK,

Respondents.

CASE NO. A1-046018

For Complainant:

Lyssa S. Anderson, Esq. for City of North Las Vegas

For Respondents:

Richard P. McCann, JD for North Las Vegas Police Supervisors
Association

For Complainant:

Richard P. McCann, JD for North Las Vegas Police Supervisors
Association

For Respondents:

Nicholas G. Vaskov, Esq. for City of North Las Vegas et al.

On the 13th day of June, 2011, this matter came on before the State of Nevada, Local
Government Employee-Management Relations Board ("Board"), for consideration and decision

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1 pursuant to the provisions of NRS and NAC chapters 288, NRS chapter 233B, and was properly
2 noticed pursuant to Nevada's open meeting laws.

3 At issue were the City's motion to consolidate Case No. A1-046014 and Case No. A1-
4 046018, the Association's motion to dismiss or in the alternative motion for summary judgment,
5 and the City's countermotion to disqualify. Each of these motions are addressed separately
6 below.

7 Motion to Consolidate

8 The Board finds that consolidation of Case No. A1-046014 and Case No. A1-046018 is
9 appropriate pursuant to NAC 288.275. The issues are substantially related and the rights of
10 parties will not be prejudiced by a consolidation. Accordingly, Case No. A1-046014 and Case
11 No. A1-046018 are hereby consolidated under the caption used above in this order.

12 Motion to Dismiss or in the Alternative Motion for Summary Judgment

13 The North Las Vegas Police Officers Association asks that the Board dismiss the City's
14 request to withdraw recognition of the Association. The bases for this motion are that 1) the
15 request does not comply with the formal pleading requirements, and 2) that the City's claim is
16 frivolous and unfounded.

17 The City opposed the motion and acknowledged that its application to withdraw
18 recognition does not comply with certain technical requirements under NAC 288.231, but that
19 dismissal for these shortcomings is not warranted. The Board agrees with the City. NAC
20 288.235(2) states that "[p]leadings, motions and other papers will be liberally construed, and any
21 defects which do not affect substantial rights of any party may be disregarded by the Board."
22 Therefore, the Board does not find a basis for dismissing the City's application due to the defects
23 in the pleading pointed out by the Association.

24 The Board disagrees with the Association's argument that the Application should be
25 dismissed at this time. Although neither NRCP 12 nor NRCP 56 apply to Board proceedings,
26 there still remain genuine issues of material fact that cannot be decided via the Association's
27 motion. Therefore the Board denies the Association's motion to dismiss or in the alternative
28 motion for summary judgment.

1 Countermotion to Disqualify

2 The City has also filed a countermotion to disqualify Richard McCann from representing
3 the Association in this proceeding, arguing that the representation does not meet the
4 requirements under NAC 288.278 for representation in contested cases. The Board agrees with
5 the City.

6 Under NAC 288.278(1), representation in a contested case before the Board may either
7 be in proper person or by an attorney licensed to practice law in Nevada. There is no dispute that
8 Mr. McCann is not a Nevada-licensed attorney. In order for an employee organization to
9 represent itself in proper person, it must be represented by an individual who is a member of the
10 organization. NAC 288.278(4). The Association acknowledges that it is the exclusive bargaining
11 agent for the North Las Vegas Police Sergeants and Lieutenants. Under NRS 288.140(3),
12 membership in this organization must be "composed exclusively of law enforcement officers."
13 Mr. McCann has not asserted that he is a law enforcement officer, thus he may not be considered
14 as a member of North Las Vegas Police Supervisors Association. Therefore his representation in
15 this matter cannot be considered to be in proper person representation by the Association.

16 Although Mr. McCann has previously appeared before this Board, and is well-qualified
17 to appear before the Board, in this case the criteria of NAC 288.278 are not met. The City's
18 motion to disqualify Mr. McCann is granted.

19 DATED this 22nd day of June, 2011.

20 LOCAL GOVERNMENT EMPLOYEE-
21 MANAGEMENT RELATIONS BOARD

22 BY: 
23 SEATON J. CURRAN, ESQ., Chairman

24 BY: 
25 SANDRA MASTERS, Vice-Chairman

26
27 BY: 
28 PHILLIP E. LARSON, Board Member

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ACTING CITY MANAGER MARYANN
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CASE NO. A1-046018

NOTICE OF ENTRY OF ORDER

To: Lyssa S. Anderson, Esq. for City of North Las Vegas
To: Richard P. McCann, JD for North Las Vegas Police Supervisors

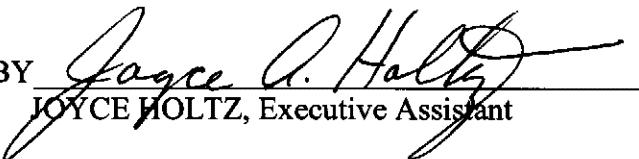
To: Richard P. McCann, JD for North Las Vegas Police Supervisors
To: Nicholas G. Vaskov, Esq. for City of North Las Vegas et al.

PLEASE TAKE NOTICE that an ORDER was entered in the above-entitled matter on
June 22, 2011.

A copy of said order is attached hereto.

DATED this 22nd day of June, 2011.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY 
JOYCE HOLTZ, Executive Assistant

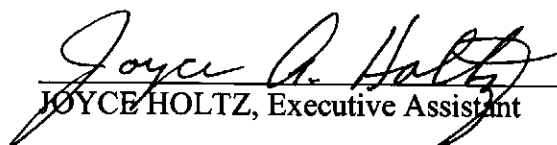
1 **CERTIFICATE OF MAILING**

2 I hereby certify that I am an employee of the Local Government Employee-Management
3 Relations Board, and that on the 22nd day of June, 2011, I served a copy of the foregoing
4 ORDER by mailing a copy thereof, postage prepaid to:

5 Lyssa S. Anderson, Esq
6 Fox Rothschild, LLP
7 3800 Howard Hughes Pkwy. #500
8 Las Vegas, NV 89169

9 Richard P. McCann, JD
10 NCPSO/CWA Local 9110, AFL-CIO
11 970 Empire Mesa Way
12 Henderson, NV 89011

13 Nicholas G. Vaskov, Esq
14 North Las Vegas Acting City Attorney
15 2200 Civic Center Drive
16 North Las Vegas, NV 89030

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19 JOYCE HOLTZ, Executive Assistant
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