

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INTERNATIONAL ASSOCIATION OF)	
FIRE FIGHTERS, LOCAL 2052,)	CASE 16055-U-01-4096
)	
Complainant,)	DECISION 7845 - PECB
)	
vs.)	
)	
CITY OF MOSES LAKE,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Respondent.)	AND ORDER
)	
)	

Emmal Skalbania & Vinnedge, by Alex J. Skalbania,
Attorney at Law, for the complainant.

The Wesley Group, by Roy Wesley, Labor Relations Consul-
tant, for the employer.

On October 17, 2001, International Association of Fire Fighters, Local 2052 (union), filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the City of Moses Lake (employer) as respondent. The complaint was reviewed under WAC 391-45-110, and a preliminary ruling issued on December 12, 2001, found a cause of action to exist with respect to the following allegations:

Employer interference with employee rights in violation of RCW 41.56.140(1), and refusal to bargain in violation of RCW 41.56.140(4), by breach of its good faith bargaining obligations through delays in negotiations, failure to make contract proposals or respond to proposals from the union, refusal to provide relevant collective bargaining information requested by the union concerning a new ambu-

lance service, failure to negotiate the impacts and effects on employees of a new ambulance service, circumventing the union through direct dealing with employees represented by the union in sending a memo of July 9, 2001, and failure to negotiate the salary and working conditions for a new classification of paramedic / firefighter.

The employer timely filed its answer with the Commission on December 28, 2001. That answer indicated that certain facts were contested. Martha M. Nicoloff of the Commission staff was designated as Examiner to conduct further proceedings, and a hearing was set in the matter. The hearing initially scheduled for May 29 and 30, 2002, was rescheduled to July 30 and 31, 2002.

On July 24, 2002, in response to a request by the parties, the Examiner conducted a prehearing conference by telephone conference call. At that time, the parties notified the Examiner that they had agreed to resolve the dispute in the following manner:

1. The union would submit an amended complaint, amending its remedy request to delete extraordinary remedies; and
2. The employer would submit an amended answer, admitting the allegations made by the union in its complaint.

The parties agreed to submit those documents to the Examiner by August 2, 2002. The hearing was continued pending the receipt of the documents.

The union's amended complaint was filed on August 1, 2002. It deletes the request for extraordinary remedies.

The employer's amended answer was filed on August 2, 2002. It reads, in pertinent part:

Upon a review of the Union's statements of fact and related documents, the City herewith submits its amended answer to the Complaint, as follows:

1. The City admits that the Union's statements of fact are true and accurate.
2. In the interest of avoiding, for both of the parties, the time and expense related to a formal hearing, the City voluntarily makes this statement, which is intended to assist the Commission in summarizing its findings and the result thereof.

The Examiner thus finds there are no contested issues of fact in the matter, and deems the employer to have admitted the allegations contained in the preliminary ruling.

FINDINGS OF FACT

1. The City of Moses Lake (employer) is a political subdivision of the state of Washington, and is a public employer within the meaning of RCW 41.56.030(1).
2. International Association of Fire Fighters, Local 2052 (union), a bargaining representative within the meaning of RCW 41.56.030(3), is the exclusive bargaining representative of a bargaining unit of non-supervisory fire fighters employed by the City of Moses Lake.
3. The employer and union were parties to a collective bargaining agreement that was effective for the period from January 1, 1999, through December 31, 2001.
4. On April 17, 2001, the union sent a letter to the employer requesting negotiations for a successor contract.

5. On May 2, 2001, the union sent a letter to the employer in which it requested information regarding the employer's anticipated acquisition of an ambulance service from the local hospital, and requested to bargain the impact of acquisition of the ambulance service on bargaining unit employees.
6. As of May 22, 2001, the employer had not responded to either of the letters described in paragraphs 4 and 5 of these findings of fact.
7. On May 22, 2001, the union sent a letter to the employer, requesting meeting dates for collective bargaining.
8. In a letter sent to the union under date of May 25, 2001, the employer acknowledged receipt of the union's letters of April 17, May 2, and May 22, 2001. In that same letter, the employer acknowledged the possible acquisition of the ambulance service, but did not respond to the union's request for information about that acquisition. The employer further indicated that it would be unable to commence the contract negotiations by June 15, 2001, as the union had requested.
9. In late May 2001, the employer began seeking applicants for a new "paramedic / fire fighter" job classification. The documents advertising for applicants included a salary range and certain specific working conditions which had not been negotiated with Local 2052.
10. On June 14, 2001, the union sent a letter to the employer, requesting bargaining regarding the wages, hours, and working conditions for paramedic / firefighters. In that letter, the union asserted an agreement between the parties to begin

negotiations on June 21, 2001, and indicated that it desired to negotiate at that time regarding the new classification and the impacts of the acquisition of the ambulance service, as well as with respect to a successor contract.

11. On June 21, 2001, the parties exchanged proposals regarding the potential impacts and effects of operating an ambulance service on bargaining unit employees. As of that date, the employer had not provided the union with all of the requested information about the ambulance service, and it refused to negotiate with the union concerning the provisions of a successor collective bargaining agreement.
12. The parties met in negotiations on July 2, July 11, and July 16, 2001. On each of those occasions, the employer indicated that it wanted to focus on negotiations regarding the ambulance service, and it refused and/or was unprepared to engage in collective bargaining regarding the provisions of a successor collective bargaining agreement between the parties.
13. During the negotiations described in paragraph 12 of these findings of fact, the employer informed the union that it planned to hire paramedic / firefighters by August 6, 2001, and that it planned to put them on shift by August 27, 2001. The union informed the employer that it wanted to complete bargaining before any implementation of the ambulance service took place, and specifically indicated its concern about safety of bargaining unit employees should there not be time to provide adequate training in advance of implementation of the ambulance service. The parties did not make significant progress toward reaching an agreement about implementing the ambulance service.

14. On July 9, 2001, the employer's assistant fire chiefs issued a memorandum regarding the ambulance service, and sent that memorandum to employees in the bargaining unit represented by the union. That memorandum indicated that the employer continued to plan for new paramedic / fire fighter employees to begin at the academy on August 6, 2001, and for the ambulance service to commence operations on August 27, 2001. The memo included the "response plan" for the ambulance service, and it solicited recipients to "review the operational issues and let us know what you think." It also indicated, "We are anxious to discuss some of the possible scenarios."
15. On July 16, 2001, the parties sent the Public Employment Relations Commission a request for mediation on subjects related to both a successor collective bargaining agreement and to the operation of the ambulance service.
16. On August 6, 2001, the employer hired a number of paramedic / fire fighters at a rate of pay and with working conditions which had not been agreed upon by the parties.
17. The employer began operating the ambulance service on August 20, 2001.
18. The parties met in mediation on August 23 and August 24, 2001. At that time, the employer made no substantive proposals regarding a new collective bargaining agreement, and did not respond to proposals made by the union on that subject. Although the parties discussed issues regarding the ambulance service during mediation, the employer claimed at that time that its only bargaining obligation regarding the ambulance

service had to do with the wage rate for paramedic / fire fighter, and that it did not have to bargain regarding any other aspect of the ambulance service unless it chose to do so.

19. The parties continued to meet without a mediator until September 10, 2001. During those meetings, the employer did not make any substantive proposals regarding a successor collective bargaining agreement, and it did not respond to proposals made by the union on that subject. The parties discussed issues related to the ambulance service during those meetings, but failed to reach agreement on those issues.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under Chapter 41.56 RCW and Chapter 391-45 WAC.
2. By its delaying and failing to make proposals in negotiations regarding a successor collective bargaining agreement, by refusing to provide information requested by the union concerning the new ambulance service, by failing to negotiate the wages, hours and working conditions for a new paramedic / fire fighter classification, and by its failure to negotiate the impacts and effects of adding an ambulance service on bargaining unit employees, all as described in the foregoing findings of fact, the City of Moses Lake has circumvented and refused to bargain with the exclusive bargaining representative of its non-supervisory fire fighter employees in violation of RCW 41.56.140(4), and has interfered with the rights of those employees in violation of RCW 41.56.140(1).

ORDER

Upon the basis of the foregoing findings of fact and conclusions of law, and pursuant to RCW 41.56.160 of the Public Employees' Collective Bargaining Act, it is ordered that the City of Moses Lake, its officers and agents, shall immediately:

1. CEASE AND DESIST from:

- a. Delaying negotiations, failing to make proposals, and failing to respond to union proposals, regarding a successor collective bargaining agreement between the City of Moses Lake and International Association of Fire Fighters, Local 2052.
- b. Refusing to provide relevant information requested by International Association of Fire Fighters, Local 2052, concerning the new ambulance service or any other matter affecting the wages, hours, or working conditions of the employees represented by that union.
- c. Refusing to negotiate and unilaterally implementing the salary and working conditions for a new paramedic / fire fighter classification to be included in the bargaining unit represented by International Association of Fire Fighters, Local 2052.
- d. Refusing to negotiate the impacts and effects of a new ambulance service on employees in the bargaining unit represented by International Association of Fire Fighters, Local 2052.
- e. Circumventing the exclusive bargaining representative of its employees, by direct communications with employees in the bargaining unit represented by International Associa-

tion of Fire Fighters, Local 2052, with respect to the wages, hours or working conditions of employees in that bargaining unit.

- f. In any other manner, interfering with, restraining, or coercing its employees in the exercise of their rights under Chapter 41.56 RCW.

2. TAKE THE FOLLOWING AFFIRMATIVE ACTION to effectuate the purposes and policies of Chapter 41.56 RCW:

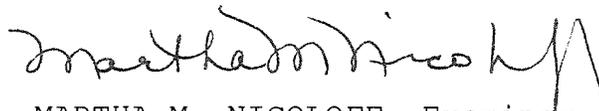
- a. Upon request, bargain in good faith with International Association of Fire Fighters, Local 2052, concerning the terms of a successor collective bargaining agreement between the parties to become effective on January 1, 2002.
- b. Provide relevant information requested by Local 2052, concerning the acquisition and implementation of the ambulance service.
- c. Upon request, bargain in good faith with Local 2052, concerning the impacts and effects of a new ambulance service on bargaining unit employees.
- d. Upon request, bargain in good faith with Local 2052, concerning the wages, hours and working conditions for the paramedic / fire fighter classification, and submit any unresolved issues to interest arbitration without reference to or reliance upon the practices unilaterally implemented by the employer.
- e. Post, in conspicuous places on the employer's premises where notices to all employees are usually posted, copies of the notice attached hereto and marked "Appendix."

Such notices shall be duly signed by an authorized representative of the respondent, and shall remain posted for 60 days. Reasonable steps shall be taken by the respondent to ensure that such notices are not removed, altered, defaced, or covered by other material.

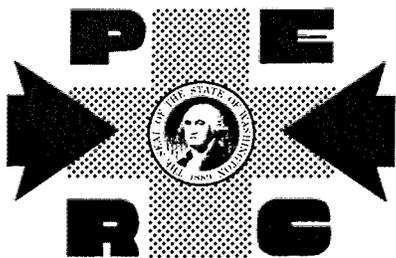
- f. Read the notice attached to this order into the record at a regular meeting of the Moses Lake City Council, and permanently append a copy of the notice to the official minutes of the meeting where the notice is read as required by this order.
- g. Notify Local 2052, in writing, within 20 days following the date of this order, as to what steps have been taken to comply with this order, and at the same time provide the complainant with a signed copy of the notice attached to this order.
- h. Notify the Executive Director of the Public Employment Relations Commission, in writing, within 20 days following the date of this order, as to what steps have been taken to comply with this order, and at the same time provide the Executive Director with a signed copy of the notice attached to this order.

Issued at Olympia, Washington, on the 19th day of September, 2002.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARTHA M. NICOLOFF, Examiner

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-45-350.



PUBLIC EMPLOYMENT RELATIONS COMMISSION

NOTICE

THE PUBLIC EMPLOYMENT RELATIONS COMMISSION, A STATE AGENCY, HAS HELD A LEGAL PROCEEDING IN WHICH ALL PARTIES WERE ALLOWED TO PRESENT EVIDENCE AND ARGUMENT. THE COMMISSION HAS FOUND THAT WE HAVE COMMITTED UNFAIR LABOR PRACTICES IN VIOLATION OF A STATE COLLECTIVE BARGAINING LAW, AND HAS ORDERED US TO POST THIS NOTICE TO OUR EMPLOYEES:

WE WILL provide relevant information requested by International Association of Fire Fighters, Local 2052, in its capacity as exclusive bargaining representative of our employees.

WE WILL, upon request, meet at reasonable times and places and bargain in good faith with Local 2052, with respect to the terms of a collective bargaining agreement effective January 1, 2002.

WE WILL, upon request, meet at reasonable times and places and bargain in good faith with Local 2052, concerning the impacts and effects of a new ambulance service on bargaining unit employees.

WE WILL, upon request, bargain in good faith with Local 2052, with regard to the wages, hours and working conditions of the paramedic / fire fighter classification, and will submit any unresolved issues to interest arbitration without reliance upon the terms we unlawfully unilaterally implemented for those employees.

WE WILL NOT fail or refuse to bargain in good faith with Local 2052, concerning the terms of a new collective bargaining agreement between the parties, the wages and working conditions for the paramedic/fire fighter classification, or the impacts and effects of a new ambulance service on bargaining unit employees.

WE WILL NOT circumvent Local 2052 by direct dealing with bargaining unit employees regarding mandatory subjects of bargaining.

WE WILL NOT, in any other manner, interfere with, restrain, or coerce our employees in the exercise of their collective bargaining rights under the laws of the State of Washington.

DATED: _____

CITY OF MOSES LAKE

BY: _____
Authorized Representative

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE.

This notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material. Questions concerning this notice or compliance with the order issued by the Commission may be directed to the Public Employment Relations Commission, 603 Evergreen Plaza Building, P. O. Box 40919, Olympia, Washington 98504-0919. Telephone: (360) 570-7300.