

**State of New Hampshire**

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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UAW Local 2232	for the	*	
PELHAM DEPARTMENT HEADS AND		*	
RESIDUAL EMPLOYEES		*	
	Complainant	*	CASE NO. M-0648-3
		*	
		*	DECISION NO. 2000-088
TOWN OF PELHAM		*	
	Respondent	*	
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**PRE-HEARING CONFERENCE MEMORANDUM AND ORDER**

**BACKGROUND**

The Complainant, UAW Local 2232, filed an improper labor practice charge pursuant to RSA 273-A:5, I(e) alleging that the Town of Pelham, (Respondent) and its agents breached the Collective Bargaining Agreement (CBA) by failing and refusing to bargain in good faith. The Union alleges in its complaint that the Respondent has failed and refused to consider ratification of a tentative agreement; has failed to authorize its bargaining representative to negotiate; and has generally employed unfair bargaining tactics such as so-called "surface" bargaining, "regressive" bargaining, session scheduling disruptions; and other dilatory actions. These allegations follow negotiation sessions between the parties since June of 1999 marked by disagreement on the terms of a tentative agreement, a change in chief negotiators for the Town, the failure of the Town's Manager to win acceptance of a tentative agreement by the Board of Selectmen, and multiple cancellations of negotiation sessions.

The Respondent Town first generally denies the material aspects of the Union's complaint and asserts that an initial tentative agreement was, in fact, rejected by the Board of Selectmen and that the Town remains willing and able to negotiate. Further, the Respondent points to its participation in a simultaneous mediation process initiated by the Complainant following the Union's declaration of impasse.

The Complainant requests relief that would have the PELRB compel the Town to ratify the initial tentative agreement, and either initiate the process to require the Town to

call a special Town Meeting to appropriate funds for that tentative agreement or compel the Town to otherwise address the financial implications of the initial tentative agreement in certain on-going negotiations and implement all non-financial provisions of the tentative agreement immediately. For its part, the Respondent Town requests that the complaint be dismissed.

### **PARTICIPATING REPRESENTATIVES**

For the Complainant: Vincent Weners, Esq.  
For the Respondent: Robert P. Leslie, Esq.

### **SCHEDULED WITNESSES**

For the Complainant:

1. Carol Knox, Sub-Regional Director, Region 9A, UAW and negotiating team member

For the Respondent:

1. James Pitts, Town Administrator
2. Gary Wulf, Chief Negotiator
3. William McDivitt,

Both parties reserve the right to amend their List of Witnesses upon proper showing and reasonable notice to the other party. It is understood that each party may rely on the representations of the other party that witnesses appearing on their respective list will be available at the hearing.

### **EXHIBITS**

For the Complainant:

1. Bargaining Proposals
2. Bargaining notes
3. Correspondence

For the Respondent:

1. Town record of negotiation

Both parties reserve the right to amend their List of Exhibits in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this

Order or, upon proper showing, later reasonable notice to the other party. Copies of all exhibits are to be submitted to the presiding officer in accordance with Pub 203.02.


**DECISION AND ORDER**

Following discussion between the parties' counsel and then with the Hearings Officer it was decided:

1. That upon the Hearings Officer taking notice of the recent appointment of a mediator to conduct mediation between the parties resulting from PELRB Case # 0648-2, Decision No. 2000-088 and by agreement between the parties, an evidentiary hearing before the board shall be postponed.
2. A hearing before the board on this matter shall not be conducted before October 24, 2000 during which time the parties shall participate and cooperate in a timely manner in the mediation process.
3. In the event that mediation shall result in an agreement that resolves the issues contained within this ULP complaint filed by the Union, each party shall inform the PELRB of the fact of resolution and the Union shall file its withdrawal of this ULP complaint.
4. In the event that a hearing before the board is scheduled, the parties shall exchange their final list of witnesses and their list of planned exhibits no later than five (5) business days before the scheduled hearing. Copies of each shall also be transmitted to the PELRB at the same time. The parties also shall arrange to pre-mark all planned exhibits, in sufficient number as called for in the rules of the PELRB, prior to the commencement of the hearing before the Board.

So ordered.

Signed this 27th day of August, 2000

  
Donald E. Mitchell, Esq.  
Hearings Officer