



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

**SEIU LOCAL 1984, SEA of NH
LITTLETON POLICE**

Petitioner

and

**TOWN OF LITTLETON
LITTLETON POLICE DEPARTMENT**

Respondent

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CASE NO. S-0374-8

DECISION NO. 2000-114

PRE-HEARING CONFERENCE MEMORANDUM AND ORDER

BACKGROUND

The SEUI Local 1984, SEA of NH, (Complainant) filed unfair labor practice charges on September 27, 2000 pursuant to RSA 273-A:5 I (a), (c), (e) and (h) alleging that the Town of Littleton, (Respondent), acting through its Police Department and its agents interfered with the rights of members by unilaterally creating a new position without negotiating the starting salary, failed to abide by an arbitrator's award and breached the parties' Collective Bargaining Agreement (CBA). The union requests an expedited hearing following which it seeks a cease and desist order preventing the Respondent from creating, hiring and setting the salary for a new position or, in the alternative, requesting the Board to order the Respondent to raise all salaries of existing positions accordingly.

The Town of Littleton (Respondent) first answers that the arbitration decision is not relevant to the creation of this new and different position. Further, the Respondent claims its action in creating the position falls within the exclusionary treatment afforded "management rights" and maintains that it is ready, willing and able to negotiate the terms and conditions of employment for the new position.

PARTICIPATING REPRESENTATIVES

For the Complainant: William H. McCann, Negotiator

For the Respondent: Mark T. Broth, Esq.

ISSUES FOR DETERMINATION BY THE BOARD

1. Whether or not the actions of the town in creating the position of School Resource Officer constituted a failure to follow and abide by a previous arbitrator's award?
2. Whether or not the actions of the town in creating the position of School Resource Officer falls within the statutory "management rights" exclusion?
3. Whether or not the actions of the town in creating the position of School Resource officer and setting its initial compensation constituted a refusal to bargain?

WITNESSES

For the Complainant:

1. Corporal Smith
2. Corporal Wentworth
3. Officer Cox
4. Officer Shepherd
5. Officer Tyler
6. Officer Gilbert

For the Respondent:

1. Don Jutton
2. William Wardwell
3. Chief Babin

Both parties reserve the right to amend their List of Witnesses 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. 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

Joint Exhibits:

1. Current Collective Bargaining Committee
2. Job newspaper advertisement, May 2000
3. Job Posting, July 2000
4. Hearing (sensory) Examination results
5. Chain of Command Chart
6. Waldwell letter with job description, dated 7/11/00
7. Attorney Broth letter, dated 7/20/00
8. Minutes of Negotiations
9. Town negotiation proposal, dated 9/12/00
10. MccCann letter, dated 7/18/00
11. Completed job application, dated 7/20/00
12. Town wage analyses:
 - a. analysis of town proposal
 - b. analysis of Union's proposal

For the Complainant (Union):

1. Parties' immediate prior Collective Bargaining Agreement, 4/1/97 – 3/31/98
2. Parties' next most prior Collective Bargaining Agreement, dates unknown
3. Arbitration Award
4. Memorandum to Chief Babin, dated 1/31/00
5. Babin letter to Smith, dated 5/25/00
6. Chapter 57 Minutes relating to hiring
7. Memorandum Smith to Chief Babin 5/26/00
8. Smith memorandum to all officers, dated 5/26/00
9. Resume (redacted)
10. Union's notice to Town to negotiate, dated 4/25/00
11. * Approved Grant application funding School Resource Officer position

* Requested of and to be produced by Town

For the Respondent:

1. Patrol Officer job descriptions
2. Town Negotiation notes

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. It is to be

understood by the parties that each party may rely on the representations of the other that the exhibits listed above will be available at hearing.

LENGTH OF HEARING

The representatives indicate that direct testimony of witnesses is now estimated to be four (4) hours. The time being set aside for this hearing is one-half day. If either party believes additional time is required, written notice of the need for additional time shall be filed with the PELRB no later than fourteen days prior to the date of hearing.

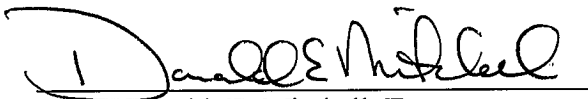
DECISION AND PRE-HEARING ORDER

1. The parties agree to continue to conduct negotiation sessions at least once every two weeks until such time as an evidentiary hearing can be conducted by the Board.
2. The Town shall incorporate a proposal regarding the compensation for the position of School Resource Officer in its next proposal to the union.
3. The Town shall provide a copy of its job description for patrol officer and a copy of its approved grant application for the funds allowing the creation of the School Resource Officer position to the union on or before Monday, November 27, 2000.
4. By agreement of the parties, this matter shall not be scheduled until mid-December.

The party representatives shall exchange their final Witness and Exhibit lists and each shall fax a copy of their respective list to the PELRB no later than Thursday, December 7, 2000. The party representatives shall meet, or otherwise arrange, to pre-mark all exhibits, for identification, prior to the time of hearing and have sufficient copies available for distribution at the hearing as required by Pub 203.02. Any additional preliminary, procedural or dispositive motions shall be filed by the parties no later than fourteen (14) days prior to the scheduled hearing date.

Unless otherwise ordered as a result of the filing of any subsequent motion, an evidentiary hearing between the parties is scheduled to be conducted at the Office of the Public Employee Labor Relations Board on **Thursday, December 14, 2000 beginning at 9:30 AM.**

Signed this 23rd day of October, 2000.


Donald E. Mitchell, Esq.
Hearings Officer