



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Teamsters Local 633 of New Hampshire
Plaistow Police Relief Association

Complainant

v.

Town of Plaistow

Respondent

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Case No. P-0748-12

Decision No. 2001-040

PRE-HEARING MEMORANDUM and ORDER

BACKGROUND

On March 5, 2001, the Teamsters Local 633 of New Hampshire, Plaistow Police Relief Association (hereinafter referred to as the "Union") filed an improper labor practice charge pursuant to RSA 273-A:3 and RSA 273-A:5 I (h) alleging that the Town of Plaistow (hereinafter referred to as the "Town") and its agents failed to bargain in good faith with the Union when its negotiator allegedly made misrepresentations and false statements regarding Union negotiation positions to the Board of Selectmen while the Board of Selectmen were deciding upon the parameters for negotiations and made misrepresentations to the Union Negotiating Team at the table that he would "re-approach" the Board of Selectmen in light of certain salary and ranking data provided to him during negotiations. The Union also claims that a failure to negotiate in good faith occurred when a Selectman disparaged the Union's negotiators to a member of the bargaining unit.

The Union complaint seeks unspecified relief from the PELRB.

The Town filed its answer on March 14, 2001 in which it denied the charges. It further responded that the ground rules between the parties provide for communication

between the Town Negotiating Team and the Board of Selectmen before and during negotiations and that such communication is privileged and confidential. For her part, Selectman Senter denies the statements attributed to her by the Union. Lastly, the Town responds that the communication between the Town's Negotiator and the Board of Selectmen on December 6, 2000 also is privileged as is the Board Members' discussions relating to the reaffirmation of the Town's parameters for negotiations.

The Town asks that the Union's charges of unfair labor practice be dismissed or denied and that the Town be reimbursed by the Union for all expenses caused by its need to respond to the complaint.

The matter was initially scheduled for a Pre-Hearing Conference on March 28, 2001. It was continued at the request of the Town after it obtained consent from the Union. It was not rescheduled until May 16, 2001 by mutual request of the parties.

PARTICIPATING REPRESENTATIVES

For the Union: Thomas D. Noonan, Business Agent and John D. Burke. Esq.

For the District: Gary W. Wulf, Labor Relations Consultant

ISSUE FOR DETERMINATION BY THE BOARD

1. Did the actions of the Town or any of its agents constitute a refusal of failure to bargain in good faith in breach of the parties' collective bargaining agreement or in violation of RSA 273-A:3 or RSA 273-A:5, I(e)

WITNESSES

For the Union (Complainant):

1. Charles Blinn, Jr., Police Officer
2. Patrick Caggiano, Sergeant and Vice President of the Union
3. Steve Ranlett, Police Officer
4. Thomas Noonan, Business Agent
5. Members of the Board of Selectmen (to be specified by name)

For the Town (Respondent):

1. Stephen Savage, Police Chief
2. Merilyn P. Senter, Chairman, Board of Selectmen

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

For the Union:

1. Collective Bargaining Agreement, Effective 4/1/00 – 3/31/01 (expired)
2. Board of Selectmen Meeting minutes, dated 9/18/00
3. Negotiation notes
4. Union negotiation proposal
5. Town negotiation counter-proposals
6. Salary and Ranking documents, compiled by Town.

For the Town:

1. Management negotiation proposals
2. Parties' Negotiation Ground Rules
3. Selectman Senter's calendar pages for 12/6/00 and 12/7/00
4. Town's posting of Non-Public Selectmen's Meeting of 12/6/00

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.

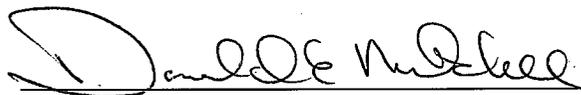
LENGTH OF HEARING

The time being set aside for this hearing as now consolidated with Case No. P-0748-11 is one 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 June 22, 2001.

DECISION

1. By agreement of the parties, the instant matter and Case No. P-0748-11 shall be consolidated for purposes of the conduct of an evidentiary hearing.
2. The party representatives shall forward any amendments to their Witness and Exhibit lists detailed above to the opposing representative or counsel and to the PELRB no later than July 10, 2001, except as relates to the Union's identification of those members of the Board of Selectmen which it intends to call as witnesses. The identification and notification to the Town of those public officials shall be made by the Union no later than June 7, 2001 at 4:30 P.M. 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.
3. In the event that either of the parties deems it necessary to compel the attendance of any witness, that party shall do so in a timely fashion under either statutory or administrative regulatory rule.
4. Any additional preliminary, procedural or dispositive motions and memoranda of law shall be filed by the parties no later than fourteen (14) calendar days prior to the scheduled hearing date with appropriate notice to the other parties of record.
5. 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 Tuesday July 17, 2001 beginning at 9:30 A. M.

Signed this 17 th day of May, 2001.



Donald E. Mitchell, Esq.
Hearings Officer