



**STATE OF NEW HAMPSHIRE**  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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United Professional Firefighters of Derry, Local  
4392, IAFF

Complainant

v.

Town of Derry

Respondent

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Case No. F-0113-31

Decision No. 2008-082

**PRE-HEARING MEMORANDUM AND ORDER**

**BACKGROUND**

The United Professional Firefighters of Derry, Local 4392, IAFF (the "union") filed an unfair labor practice complaint on March 6, 2008. The union's complaint arises from the town council's failure to approve two collective bargaining agreements at the April 5, 2008 Town Council Meeting. According to the union, the proposed contracts were rejected based upon matters that were not even negotiated during 2 years of negotiations. The union claims the town failed to bargain in good faith in violation of RSA 273-A:5, I (e).

As remedies, the union requests that the PELRB: 1) find that the town has committed an unfair labor practice; 2) require the town to negotiate in good faith; and 3) grant such other and further relief as is just and equitable.

The town filed its answer on March 20, 2008. The town contends that the council, as the local legislative body, was required to consider all cost items contained in the proposed contract, not just those that were the subject of the negotiations which resulted in the proposed contracts. The town otherwise denies the allegations that it has failed to act in good faith or violated the provisions of RSA 273-A:5, I.

The undersigned Hearing Officer conducted a pre-hearing conference on April 2, 2008 at the offices of the Public Employee Labor Relations Board in Concord.

PARTICIPATING REPRESENTATIVES

For the Union: John S. Krupski, Esq.

For the Town: Mark T. Broth, Esq.

ISSUES FOR DETERMINATION BY THE BOARD

Whether the town's failure to approve the 2 collective bargaining agreements violated RSA 273-A:5 I(e)?

WITNESSES

For the Union:

1. Gary Williams, union president
2. Kevin Coyle, town councilor
3. Janet Fairbanks, town councilor

For the Town:

1. Larry Budreau, Director, Human Resources and Administration
2. Gary Stenhouse, Town administrator

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 with 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. Current collective bargaining agreement
2. Tentative agreements
3. Selectmen meeting minutes
4. Pleadings in this matter
5. Documents filed as exhibits to pleadings
6. Documents or exhibits included in the town's exhibit list not otherwise introduced by the town
7. Documents required for impeachment purposes

For the District:

1. Collective bargaining agreements

2. Negotiation ground rules
3. Minutes of town council meeting
4. Negotiation notes
5. Any documents listed by the union

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

#### LENGTH OF HEARING

The time set aside for hearing is 3 hours. If either party believes that additional time is required, written notice of the need for additional time shall be filed with the PELRB at least 10 days prior to the date of hearing.

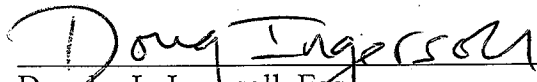
#### DECISION

1. "Parties" means the named petitioner and respondent or the counsel/representative appearing in the case. Unless otherwise ordered, the parties shall meet, or otherwise confer, on or before May 12, 2008 and attempt to reach a stipulation on presenting the instant case by written submission, or, in the alternative, without the need for formal testimony. The parties shall document any such agreement by immediately filing a joint statement which includes a proposed schedule for the parties' fact stipulation filings and briefs, if any.
2. If the matter is to proceed to hearing, the parties' shall meet, or otherwise confer, on or before May 12, 2008 in order to compose a mutual statement of agreed facts. The parties shall file their fact stipulations at least 5 days prior to the date of the hearing.
3. The parties shall file any amendments to, or deletions from, their witness and exhibit lists at least 5 days prior to the scheduled hearing date. The parties shall meet, or otherwise arrange, to pre-mark any 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.
4. The parties shall file any motions no later than 20 calendar days prior to the scheduled hearing date.
5. At the pre-hearing conference, the parties discussed the likelihood of further contract negotiations followed by further town council review of any proposed tentative agreements. The parties anticipate that in the event this process results in final and fully approved contracts further proceedings in this case may be unnecessary. Accordingly,

the hearing in this matter will be rescheduled to May 20, 2008 in order to allow the parties sufficient time to complete further contract negotiations and town council review. The parties shall promptly notify the PELRB in the event this matter resolves. Unless otherwise ordered as a result of the filing of any subsequent motion or for other good cause shown, an evidentiary hearing between the parties will be held on **May 20, 2008 at 9:30 a.m.** at the offices of the Public Employee Labor Relations Board in Concord.

So ordered.

April 2, 2008.

  
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Douglas L. Ingersoll, Esq.  
Staff Counsel/Hearing Officer

Distribution:

John S. Krupski, Esq.

Mark T. Broth, Esq.