



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

**Laconia Patrolman Association**

v.

**Laconia Police Commission**

**Case No. G-0146-1**

**Decision No. 2010-178**

**PRE-HEARING MEMORANDUM AND ORDER**

Date of Conference: October 4, 2010

Appearances: John S. Krupski, Esq. for the Laconia Patrolman Association

Mark T. Broth, Esq. for the Laconia Police Commission

**Background:**

The Laconia Patrolman Association filed an unfair labor practice complaint against the Laconia Police Commission on August 6, 2010. The Complainant claims that the Respondent's agent, who had negotiated and agreed to the tentative agreement, publicly disavowed the tentative agreement before the legislative body of the public employer, the City Council; that the Respondent acquiesced to pressure from the Council when the Council threatened to reduce the budget of the Police Department by \$100,000 if step increases were granted to certain police officers after the expiration of the parties' 2007-2010 collective bargaining agreement (CBA); and that the Respondent attempts to circumvent the RSA 273-A:12, VII, the so-called

“evergreen” provision. The Complainant contends that the Respondent’s actions violate RSA 273-A:3, RSA 273-A:5, I (e), (g), (h), and (i), and RSA 273-A:12, VII.

The Respondent denies the charges and claims that it lacks authority to compel the City Council as to how and when to vote on a proposed tentative agreement; that the City Council, acting in its capacity as the local legislative body, has the authority to approve or disapprove cost items in a proposed tentative agreement; that, following expiration of the parties’ CBA, the Respondent lacked authority to award step increases; and that the PELRB cannot compel a public employer to award step increases after the expiration of a CBA that have not been approved by the public employer’s legislative body.

#### ISSUES FOR DETERMINATION BY THE BOARD

1. Whether the Respondent’s actions constitute an unfair labor practice in violation of RSA 273-A:5, I (e), (g), (h), or (i).

#### WITNESSES and EXHIBITS:

As outlined in the parties Joint Pre-Hearing Worksheet. Both parties reserve the right to amend their List of Witnesses and 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. 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. 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.

## DECISION

1. "Parties" means the Complainant, the Respondent, or their counsel/representative appearing in the case. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.
2. The Respondent's assented to motion to continue is granted. The adjudicatory hearing currently scheduled for October 19, 2010 is hereby cancelled. The parties will be informed of the new hearing date by a subsequent notice.
3. The parties shall prepare and file a final statement of stipulated facts no later than 10 days prior to the date of the rescheduled adjudicatory hearing.
4. The parties shall exchange and file their final witness and exhibit lists no later than 10 days prior to the date of the rescheduled adjudicatory hearing.

## HEARING

The parties will be notified of the date of the rescheduled adjudicatory hearing by a subsequent notice. The time set aside for this hearing is 6 hours.

So ordered.

October 4, 2010



Karina A. Mozgovaya, Esq.  
Staff Counsel/Hearing Officer

Distribution:  
Mark T. Broth, Esq.  
John S. Krupski, Esq.