



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Derry Police Patrolman's Association, NEPBA Local 38

v.

Town of Derry

Case No. G-0135-2
Decision No. 2011-099

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: April 6, 2011¹

Appearances: Peter J. Perroni, Esq. for the Derry Police Patrolman's Association,
NEPBA Local 38

Thomas M. Closson, Esq. for the Town of Derry

Background:

The Association filed an unfair labor practice complaint against the Town on February 9, 2011 claiming that the Town committed an unfair labor practice in violation of RSA 273-A:5, I (a), (e), (g), and (i) when it refused to bargain the installation, use and/or impact of the installation of Digital In-Car Video Camera Systems and GPS in the cruisers operated by bargaining unit members. The Association asserts that the installation of Video Camera Systems and GPS and adoption of policies and procedure regarding their use are mandatory subjects of bargaining and constitute a significant change in terms and conditions of employment. The Association requests that the PELRB issue a cease and desist order prohibiting the Town from continuing the installation of Video Camera Systems and GPS, and the implementation of related

¹ The parties filed a Joint Pre-Hearing Worksheet on March 7, 2011.

policies and procedures, prior to engaging in good faith bargaining with the Association on the issues of installation and its impact on working conditions. The Association also requests that the PELRB order the Town to pay the Association's costs associated with this complaint.

The Town denies the charges and asserts, among other things, that the installation of Video Camera Systems and GPS is within its exclusive managerial prerogative, is not a mandatory subject of bargaining, and does not affect any terms and conditions of employment. The Town requests that the PELRB dismiss the complaint with prejudice and award the attorneys' fees the Town had incurred in responding to the Association's complaint.

ISSUE FOR DETERMINATION BY THE BOARD

Whether the Town committed an unfair labor practice in violation of RSA 273-A: 5, I(a), (e), (g), and (i) when it refused to bargain the installation, use and/or impact of installation of Video Camera Systems and GPS in the cruisers operated by bargaining unit members.

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 Association, the Town, or their counsel/representative appearing in the case. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.

2. At the pre-hearing conference the parties agreed to discuss the submission of this case on stipulated facts, joint exhibits, and briefs. The parties shall file a joint request to submit this case on stipulated facts, joint exhibits, and briefs, if any, no later than **April 13, 2011**. Such request shall contain a proposed schedule for submission of stipulated facts, joint exhibits, and briefs.
3. The parties shall exchange and file their final witness and exhibit lists no later than **April 14, 2011**.
4. The parties shall prepare and file a final statement of stipulated facts no later than **April 14, 2011**.
5. The parties shall pre-mark exhibits by placing identifying markers in the upper right corner of each exhibit, if possible. To facilitate access to a particular exhibit, the parties shall use tabs to separate exhibits.

HEARING

Unless otherwise ordered as a result of the filing of any subsequent motion or for other good cause shown, the adjudicatory hearing between the parties will be held on **April 21, 2011 at 9 a.m.** at the offices of the Public Employee Labor Relations Board in Concord. The time set aside for this hearing is 3 hours.

So ordered.

April 6, 2011


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

Distribution:
Peter J. Perroni, Esq.
Thomas M. Closson, Esq.