



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

**Seabrook Professional Fire Fighters Association, IAFF Local 2847**

**v.**

**Town of Seabrook**

**Case No. G-0133-4**

**Decision No. 2011-103**

**PRE-HEARING MEMORANDUM AND ORDER**

Date of Conference: April 11, 2011<sup>1</sup>

Appearances: Glenn R. Milner, Esq. for the Seabrook Professional Fire Fighters Association, IAFF Local 2847

J. Joseph McKittrick, Esq. for the Town of Seabrook

**Background:**

The Association filed an unfair labor practice complaint against the Town on February 28, 2011 claiming that the Town committed an unfair labor practice in violation of RSA 273-A:5, I (e), (g), and (i) by failing to present all cost items in the tentative agreement to its legislative body. The Association asserts that the Town only presented a 1% wage increase as if the members of the bargaining unit received a weekly salary for 40 hours and not an hourly rate of pay for an average of 42 hours per week, which allegedly downwardly adjusted the true costs of the contract. The Association requests that the PELRB find that the Town committed an unfair labor practice, order the Town to cease and desist from bargaining in bad faith, and require the

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<sup>1</sup> The parties filed a Joint Pre-Hearing Worksheet on March 30, 2011.

Town to fund all cost items in the contract and to reimburse the Association for reasonable attorney's fees and costs.

The Town denies the charges and asserts, among other things, that the case is moot because the voters of the Town rejected the proposed collective bargaining agreement at the Town's annual meeting on March 8, 2011. The Town requests that the PELRB dismiss the complaint, deny the Association's request for attorney's fees, and grant the Town its fees for having to defend against the Association's claim.

#### ISSUE FOR DETERMINATION BY THE BOARD

1. Whether the case is moot.
2. Whether the Town committed an unfair labor practice in violation of RSA 273-A:5, I (e), (g), and/or (i) when it presented to its legislative body a 1% wage increase on a basis of 40-hour week.

#### 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. As agreed at the pre-hearing conference, the Town shall file a motion to dismiss, if any, no later than **April 15, 2011**. The Association shall file a response to the motion to dismiss, if any, within 5 days from the date of filing of the motion.
3. The parties shall exchange and file their final witness and exhibit lists no later than 10 days prior to the date of hearing.
4. The parties shall prepare and file a final statement of stipulated facts no later than 10 days prior to the date of hearing.
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 **May 10, 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 4 hours.

So ordered.

April 11, 2011

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

Distribution:  
Glenn R. Milner, Esq.  
John S. Krupski, Esq.  
J. Joseph McKittrick, Esq.