



STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

**New England Police Benevolent Association,
Auburn Police Union**

v.

Town of Auburn

**Case No. G-0195-2
Decision No. 2013-117**

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: June 17, 2013

Appearances: Peter J. Perroni, Esq. for the Complainant
Kathleen C. Peahl, Esq. for the Respondent

Background:

On November 19, 2012 the Union filed an unfair labor practice complaint claiming that the Town violated RSA 273-A:5, I (a), (b), (e), and (g) when, during the status quo period following the filing of Union's petition for certification, it unilaterally implemented a change in the Town ordinance that governed the staffing of traffic details. The Union argues, among other things, that the staffing of traffic details is a mandatory subject of bargaining and that the Town's actions violated the existing past practice and the status quo doctrine. The Union requests that the PELRB order the Town to cease and desist from implementing the ordinance, return to the status quo, order the Town to bargain with the Union regarding the ordinance, and pay the costs and attorney fees incurred by the Union in pursuing this claim.

The Town denies the charges and asserts, among other things, that the Town had begun considering changes to the ordinance before the Union commenced its organizing efforts; that the disputed change is within the Town's management rights and does not affect mandatory subjects of bargaining; and that the Town offered the Union to bargain the impact of the change. The Town requests that the PELRB dismiss the complaint.

ISSUES FOR DETERMINATION BY THE BOARD

Whether the Town violated RSA 273-A:5, I (a), (b), (e), and (g) as charged by the Union.

WITNESSES and EXHIBITS:

As outlined in the parties' Joint Pre-Hearing Worksheet. Both parties may amend their lists of witnesses and exhibits in conformity with Pub 203.01. It is understood that each party may rely on the representations of the other party that witnesses and exhibits appearing on their respective lists will be available at the hearing.

DECISION


1. "Parties" means the Union, 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. The parties shall file their final witness and exhibit lists and a statement of stipulated facts, if any, no later than July 22, 2013.
3. The requirement that the parties file copies of proposed exhibits prior to the date of adjudicatory hearing is suspended. The parties shall not file, either electronically or via mail, proposed exhibits prior to the day of hearing. The parties shall pre-mark each exhibit by placing identifying markers in the upper right corner of each exhibit, if possible, and bring an original and five (5) copies of each exhibit to the hearing. 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, the adjudicatory hearing in this case will be held on **July 25, 2013 at 8:30 a.m.** at the offices of the PELRB in Concord. The time set aside for this hearing is 2 hours. If either party believes that additional time is required, a written notice of the need for additional time shall be filed with the PELRB by July 22, 2013.

So ordered.

July 17, 2013


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

Distribution:

Peter J. Perroni, Esq.

Kathleen C. Peahl, Esq.