



STATE OF NEW HAMPSHIRE
Public Employee Labor Relations Board

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

v.

Town of Auburn, Police Commission

**Case No. G-0195-3
Decision No. 2017-002**

Pre-Hearing Memorandum and Order

Date of Conference: January 5, 2017

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

Background:

On October 12, 2016, the New England Police Benevolent Association, Auburn Police Union (Union) filed an unfair labor practice complaint alleging that the Town of Auburn, Police Commission (Town) violated RSA 273-A:5, I (e) and (g) when it unilaterally decided to engage an outside investigator to conduct an internal affairs investigation of police department personnel and refused to bargain with the Union over this decision. The Union asserts that the Town's actions were contrary to the Town rules and past practice and "constituted a unilateral change with regard to a mandatory subject of bargaining." The Union seeks all appropriate remedies available under RSA 273-A.

The Town denies the charge and asserts, among other things, that decision to engage an outside investigator was within the Town's exclusive managerial prerogative and that the Town's

action did not constitute a change in terms or conditions of employment. The Town requests that the PELRB dismiss the complaint.

Issues for Determination by the Board

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

Witnesses and Exhibits

As outlined in the parties' Joint Pre-Hearing Worksheet. Both parties reserve the right to 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. At the pre-hearing, the parties discussed the possibility of submission of this case for decision on stipulated facts, exhibits, and briefs. A written request, if any, to submit this case on briefs shall be filed no later than **January 12, 2017**. Such request shall contain a proposed schedule for submission of stipulated facts, joint exhibits, opening briefs, and reply briefs, if any.
3. The parties shall file a joint statement of stipulated facts and their final witness and exhibit lists no later than **January 17, 2017**.
4. 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

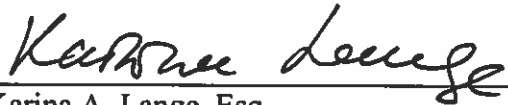
possible, and bring an original and five copies of each exhibit to the hearing. To facilitate access to a particular exhibit, the parties shall use tabs to separate exhibits.

Hearing

Unless otherwise ordered as a result of the filing of any subsequent motion, the adjudicatory hearing in this case will be held on **January 24, 2017, at 8:30 a.m.**, at the offices of the PELRB in Concord. The time set aside for this hearing is 3 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 at least ten days prior to the date of hearing.

So ordered.

Date: 1/5/2017



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

Distribution: Peter J. Perroni, Esq.
Kathleen C. Peahl, Esq.

