



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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Professional Firefighters of Goffstown		*
Local 3420, IAFF		*
	Complainant	*
		*
	v.	*
		*
Town of Goffstown		*
	Respondent	*
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Case No: F-0143-7

Decision No. 2006-162

PRE-HEARING MEMORANDUM AND ORDER

BACKGROUND

Professional Firefighters of Goffstown, Local 3420 IAFF (hereinafter "the Union") filed an unfair labor practice complaint on August 28, 2006 alleging that the Town of Goffstown (hereinafter "the Town") committed unfair labor practices in violation of RSA 273-A:5 I (e),(g),(h) and (i).

According to the Union, the parties' collective bargaining agreement ("CBA") expired at the end of 2005 subject to the status quo doctrine. Under the agreement Union members are only to be scheduled Monday through Friday and are not to be scheduled on weekends and holidays except on a temporary basis because of emergency circumstances. The Union claims that on August 7, 2006 the Board of Selectmen directed Chief Carpentino to violate the CBA by requiring the Chief to staff at least one fire station on weekdays and weekends from 6:00 a.m. to 6:00 p.m. and to schedule "full-timers at the regular hourly rate on the weekend" if necessary. The Chief states that the new schedule is effective from August 28, 2006 until December 3, 2006. The Union claims the new schedule is a unilateral act which the CBA and the Town improperly adopted a law or regulation that invalidates portions of the CBA.

The Union also complains about the Town's alleged failure to offer proposals to alter hours of work and asserts that the Town is improperly and consistently asserting current contract language. The Union claims the Town is improperly refusing to negotiate a mandatory subject of bargaining.

The Union requests that the PELRB find that: (1) the Town has committed improper labor practices; (2) order that the Town cease and desist from any further illegal activities; and (3) grant such other relief as is just and equitable.

The Town filed its answer denying the Union's charge on September 6, 2006. Although the Town essentially admits to the chronology of events as described by the Association in its charge, it denies any violation of the parties' contract or the law. The Town asserts that the schedule change is temporary and is allowed under the CBA. The Town says the schedule change is justified by the Chief's conclusion in his July 31, 2006 weekly report that "[t]he issue of station closings due to lack of coverage and the lack of response by employees has created a serious safety issue for the department and the community."

Accordingly, the Town requests that the PELRB find that: (1) the Town of Goffstown has not committed an unfair labor practice; (2) dismiss the Unfair Labor Practice in its entirety; and (3) order such other relief as it deems just.

The undersigned hearing officer conducted an informal pre-hearing conference at the PELRB on September 29, 2006 during which both parties were represented by counsel.

PARTICIPATING REPRESENTATIVES

For the Union: John S. Krupski, Esq.

For the Town: Paul T. Fitzgerald, Esq.

ISSUES FOR DETERMINATION BY THE BOARD

1. Whether the schedule change is temporary and is justified by emergency circumstances within the meaning of the parties' CBA?
2. Whether the Town has refused to negotiate a mandatory subject (hours of work) of bargaining?

WITNESSES

For the Union:

1. Chief Frank Carpentino
2. President William Connor
3. Chief Paul Nault, interim Fire Chief in 2003-2004 time period.
4. Steve Roberts, Former President Local, former member of negotiating team.
5. Barbara Griffin, Selectmen.
6. Steve Towers, Former President Local, Training Captain (outside the union).
7. Chief Hunter, Fire Chief for several years prior to Chief Nault.

For the Town:

1. Sue Desruisseaux
2. Chief Frank Carpentino
3. Nick Campasano
4. Barbara Griffin

Both parties reserve the right to amend their List of Witnesses 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.

EXHIBITS

The parties agreed at pre-hearing to each other's exhibits, and they are accordingly identified as joint exhibits as follows:

Joint Exhibits:

1. Collective Bargaining Agreement dated 3/18/02
2. Chief's Memo dated 8/17/06
3. Letter to Chief dated 8/7/06
4. Chief's report for week ending 1/06-present
5. Selected Provisions of 2005 Town Warrant
6. Selected sections of 2006 Town Warrant
7. Board of Selectmen Minutes
8. Chief's Report for week ending 7/31/06

Both parties reserve the right to amend their List of 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. 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.

LENGTH OF HEARING

The time set aside for this hearing will be one-half (1/2) day. If either party believes that additional time is required, written notice of the need for additional time shall be filed with the PELRB at least twenty (20) days prior to the date of the evidentiary hearing.

DECISION

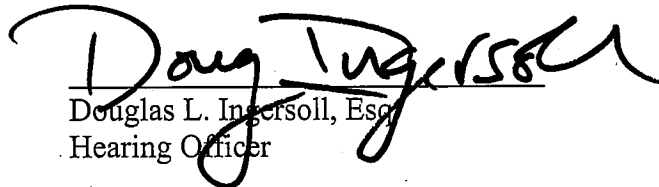
1. The parties' representatives shall meet, or otherwise confer, on or before October 18, 2006 in order to compose a mutual statement of agreed facts. The parties' representatives shall memorialize those facts upon which they can so stipulate and file that document with the PELRB at least five (5) days prior to the date of the hearing.
2. The party representatives shall forward any amendments to, or deletions from, their Witness and Exhibit lists, as detailed above, to the opposing representative or counsel, and to the PELRB, at least five (5) days prior to the scheduled hearing date. The party representatives shall meet, or otherwise arrange, to pre-mark any exhibits, for identification, prior to the time of hearing and have sufficient copies available for distribution at the hearing as required by Pub 203.02.
3. The parties shall file any additional preliminary, procedural or dispositive motions no later than twenty (20) calendar days prior to the scheduled hearing date.
4. Unless otherwise ordered as a result of the filing of any subsequent motion or for other good cause shown, an evidentiary hearing between the parties will be held on

November 1, 2006 @ 9:30 a.m.

at the offices of the Public Employee Labor Relations Board, Concord, New Hampshire.

So ordered.

Signed this 29th day of September, 2006.


Douglas L. Ingersoll, Esq.
Hearing Officer

Distribution:

John S. Krupski, Esq.

Paul T. Fitzgerald, Esq.