



**State of New Hampshire**  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

**AFSCME Local 3657, Weare Police Employees**

v.

**Town of Weare**

**Case No. G-0092-3**  
**Decision No. 2014-007**

PRE-HEARING MEMORANDUM AND ORDER

Date of Conference: January 8, 2014

Appearances: Karen E. Clemens, Esq. for the Union  
Mark T. Broth, Esq. for the Town

Background:

On December 12, 2013 the Union filed an unfair labor practice charge under the Public Employee Labor Relations Act, citing violations of RSA 273-A:5, I (a), (b), (c), (g), and (i) related to the Town's treatment of Joseph Kelley, the Union's related efforts to represent Kelley, and the Union's unsuccessful attempts to obtain copies of relevant internal affairs investigation files. The Town terminated Kelley's employment as a sergeant in the Weare Police Department on November 21, 2013 based upon the results of an internal affairs investigation conducted by Police Chief Valleca. The Town has referred the circumstances relating to Kelley's termination to the Attorney General's office for investigation. The Union also filed a motion for a cease and

desist order, seeking an order requiring the Town to provide a copy of the internal affairs investigation files as the Union has previously requested.

The Town has answered the complaint and generally denies any violation of the provisions of RSA 273-A:5, I. The Town objects to the Union's motion for a cease and desist order. According to the Town "the Attorney General has requested that the files not be made available while its investigation is ongoing" and that "[a] brief delay in producing the internal affairs investigation files will not prejudice the Union in this matter."

#### ISSUES FOR DETERMINATION BY THE BOARD

Union's motion for cease and desist order and whether the Town has violated RSA 273-A:5, I (a), (b), (c), (g), and (i).

#### 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. 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.

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. Per prior PELRB Decision No. 2013-271 (December 23, 2013) the Union's motion for a cease and desist was addressed at the time of the pre-hearing conference and an order granting the motion has issued. *See* PELRB Decision No. 2014-006 (January 8, 2014).
3. The Union's request at the pre-hearing conference to amend its complaint to add a claim based upon an alleged violation of past practice is granted subject to the following schedule: Amendment to be filed on or before **January 10, 2014** and Answer to Amended Complaint to be filed on or before **January 17, 2014**.
4. The parties shall file their final witness and exhibit lists and a statement of stipulated facts no later than 10 days prior to the date of hearing.

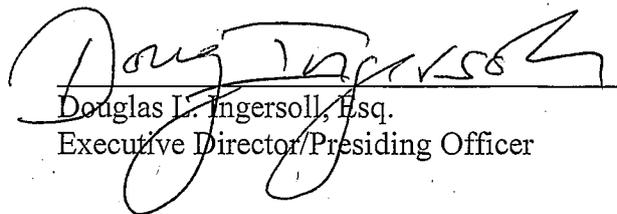
HEARING

Unless otherwise ordered as a result of the filing of any subsequent motion, the adjudicatory hearing in this case will be held on **January 30, 2014 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 10 days prior to the date of hearing.

So ordered.

Date: \_\_\_\_\_

*1/8/2014*

  
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Douglas L. Ingersoll, Esq.  
Executive Director/Presiding Officer

Distribution: Karen E. Clemens, Esq.  
Mark T. Broth, Esq.

