



State of New Hampshire
Public Employee Labor Relations Board

Strafford County Sheriff's Employee Association
NEPBA Local 295

v.

Strafford County (Sheriff's Office)

Case No. G-0196-9
Decision No. 2020-215

Pre-Hearing Memorandum and Order

Date of Conference: September 16, 2020

Appearances (WebEx): Peter Perroni, Esq., for the Complainant

Gary Wulf, Labor Representative, for the Respondent

Background:

On August 17, 2020, the Strafford County Sheriff's Employee Association, NEPBA Local 295 (Union), filed unfair labor practice complaints against the Strafford County Sheriff's Office (County) under the Public Employee Labor Relations Act claiming that the County had violated RSA 273-A:5, I (a), (d), (e), (g), (h), and (i) when it breached a memorandum of understanding (MOA) between the parties, refused to negotiate the changes to work details related procedures, layoff related procedures, and the impact of layoff, and retaliated against bargaining unit employees because they demanded impact bargaining. Specifically, the Union alleges as follows: (1) on June 28, 2020 the parties entered into the first MOA by which bargaining unit employees' work time was reduced to 60% to avoid layoffs and which contained WorkShare and Cares Act provisions; (2) on July 24, 2020 the parties entered into the second MOA which extended the

provisions of the first MOA but without Cares Act provisions; (3) the July 24 MOA was to expire on August 2, 2020 and provided that the employer would consider and approve employee requests to work outside details; (4) on July 27, 2020, the County implemented a "new policy regarding working details that effectively foreclosed any opportunity" to work details; (5) the Union protested this policy; (6) on August 1, 2020, the County "unilaterally changed the schedule of numerous bargaining unit employees"; (7) the Union grieved the refusal to allow outside details and the change in schedule; (8) on August 7, 2020 the County laid off 10 bargaining unit employees in retaliation for the Union's demands to bargain and objections to the County's actions; (9) on August 11, 2020, the County demanded that the Union agree to terminate the MOA and allow all employees to work 100% of workload and, when the Union did not agree, required employees to work at 100% of workload; (10) by its actions, the County breached the July 24 MOA, refused to negotiate with the Union over the impact of layoffs, among other things, and retaliated against the bargaining unit employees. The Union requests that the PELRB order the County to cease and desist from any further violations; to make employees whole for lost wages and benefits, and to award attorney's fees and costs.

The County denies the charges and asserts, among other things, that: (1) no new policies were implemented; (2) the layoffs were "implemented in accordance with Management rights, with notice and only after the expiration of the WorkShare program designed to delay the layoffs"; (3) the County did not refuse to bargain; and (4) there has been no retaliation or a breach of the MOA.

Issues for Determination by the Board

Whether the County violated RSA 273-A:5, I (a), (d), (e), (g), (h), and (i) as charged by the Union.

Witnesses and Exhibits

As outlined in the Pre-Hearing Worksheets. 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 County or their counsel/representative appearing in the cases. The parties shall simultaneously copy each other electronically on all filings submitted in these proceedings.
2. The hearing in these consolidated cases shall be conducted via WebEx video. The PELRB Guidelines for WebEx Video Hearings ("Guidelines") are attached to this pre-hearing order and incorporated by reference.
3. The testimony of all witnesses shall be presented in accordance with the procedures set forth in the Guidelines.
4. All exhibits shall be exchanged, marked, and filed with the PELRB in accordance with the Guideline instructions.
5. A comprehensive statement of stipulated facts shall be filed with the PELRB no later than 3 days prior to the date of hearing.
6. The parties shall ensure that witnesses are familiar with the WebEx platform and have access to technology necessary to participate in a WebEx hearing.

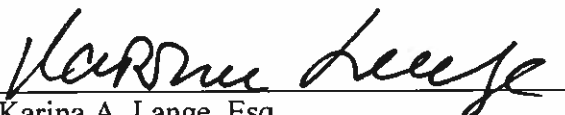
Hearing

Unless otherwise ordered, the hearing in these consolidated cases will be conducted virtually by WebEx on **October 1, 2020, at 9:00 a.m.** The PELRB will issue the WebEx hearing invitation at least five business days prior to the hearing, and 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, together with a detailed explanation of the basis for the request, shall be filed with the PELRB at least 10 days prior to the date of hearing.

So ordered.

Date: 9/16/2020


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

Distribution: Peter Perroni, Esq.
Gary Wulf, Labor Representative



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Guidelines for WebEx Video Hearings

Introduction: These are general guidelines applicable to PELRB WebEx video hearings which are subject to revision, and which may be altered, amended, or supplemented in a pre-hearing order.

1. Record: The PELRB shall make and maintain the official audio recording of WebEx video hearings using the PELRB's existing digital recording equipment. The presiding officer will indicate when the proceedings are being recorded by stating "on the record," "off the record," or similar phrases. The PELRB record shall be used by the parties for all purposes in the case.

2. Exhibits: All hearing exhibits shall be exchanged, marked, and filed with the PELRB as follows:

a. At least 7 days prior to hearing the parties shall exchange exhibit lists and exhibits. The parties shall determine whether each exhibit will be marked for identification only, as one party's full exhibit by agreement, or as a joint exhibit.

b. An exhibit marked for identification only shall be marked "Union Ex. 1 id" or "City Ex. A id," depending on which party is offering the exhibit.

c. An exhibit marked as one party's full exhibit by agreement shall be marked "Union Ex. 1" or "City Ex. A," depending on which party is offering the exhibit.

d. A joint exhibit shall be marked "Joint Ex. 1."

e. Each party's final exhibit list shall indicate which exhibits are only marked for identification.

f. A separate joint exhibit list shall be prepared if applicable.

g. All final exhibit lists and exhibits must be emailed to the PELRB at least 3 business days prior to hearing. Any exhibit that cannot be emailed must be delivered to the PELRB at least 3 business days prior to hearing. The Admin. Rule Pub 203.03 (c) 100 page limit on electronic submissions is suspended until further notice.

3. Witnesses:

- a. The parties are responsible for ensuring witnesses are familiar with WebEx and have access to technology and connections necessary to participate in a WebEx proceeding.
- b. The parties are responsible for ensuring witnesses are available for examination at all times throughout a WebEx proceeding unless excused from the proceeding by the presiding officer.
- c. No one else shall be present in the room where a witnesses is testifying by WebEx, and witnesses may not consult with anyone during testimony and should not look at or make references to notes or any other documents other than pre-marked exhibits except as permitted by the presiding officer.
- d. The parties are responsible for ensuring that witnesses have access to any exhibits about which they are questioned.
- e. Witnesses shall only respond to questions asked by party representatives, the presiding officer, or PELRB members. In the event of an objection, witnesses shall refrain from answering the pending question until the presiding officer has ruled.
- f. Any witness whose testimony cannot be presented in accordance with these instructions shall be directed to appear at the PELRB on the hearing date, where they will be provided with WebEx access in the PELRB hearing room. The parties shall notify the PELRB of all such witnesses at least three business days prior to the hearing date.

4. Party Representatives:

- a. Only representatives who have filed a case or have filed an appearance on behalf of a party may address the PELRB on behalf of a party. Others may address the PELRB only with the presiding officer's permission.
- b. In the event multiple representatives attempt to speak at once, the party whom the presiding officer recognizes shall speak first.
- c. Representatives should raise any anticipated technical issues or difficulties with a scheduled WebEx hearing prior to any pre-hearing conference or, in the absence of a pre-hearing or status conference, at least 14 days prior to the hearing date.