



State of New Hampshire
Public Employee Labor Relations Board

**AFSCME Council 93, Londonderry Administrative Employees Association
(Town Administrative Employees)**

v.

Town of Londonderry

**Case No. G-0182-6
Decision No. 2023-289**

Supplemental Pre-Hearing Order

The undersigned held a further pre-hearing conference on November 6, 2023, in this case that is scheduled for hearing on November 17, 2023. The likely scope of evidence as well as the parties' exhibit lists, witness lists, and stipulations submitted following the earlier pre-hearing conference, as well as other matters relating to the hearing process, were reviewed and discussed.

Based on these discussions, the parties shall proceed as follows:

I. **Exhibits:**

The Town agreed that Union Exhibits 1 through 29 listed on the Union's August 25, 2023, filing may be marked as full exhibits subject to any arguments the Town may make about the relevance, probative value, or weight of such exhibits in its post-hearing brief. The Union stated it anticipates making a similar agreement as to Town Exhibits A through S listed on the Town's August 17, 2023, exhibit list but requested additional time to complete its review. Accordingly, the Union shall submit a filing no later than 10:00 a.m. on November 7, 2023, to advise whether the Town's exhibits can be marked as full by agreement subject to any arguments the Union may make about the relevance, probative value, or weight of such exhibits in its post-hearing brief. A further status conference by WebEx video will be scheduled for 2:00 p.m. on November 7, 2023, to review the Union's expected filing. The undersigned may, based on the Union's submission, determine that a further conference is unnecessary, in which case the parties will be so notified no later than 1:00 p.m. on November 7.

II. Witnesses:

After discussion, the Union removed John Trottier from its witness list. As to its remaining four witnesses, the Union anticipates direct examination will take the following amount of time: Gandia (1 hour); Morrison (20 minutes); Codner (20 minutes); and Kilmer (30 minutes). The Town expects a similar, and perhaps less, amount of time for cross-examination of these witnesses. The Town expects approximately 45 minutes for direct examination of Malaguti, and it appears less time will be required for any cross-examination.

During the discussion the parties were reminded to prepare testimony outlines with due regard for evidence that will be submitted into the record via the stipulations and numerous exhibits, and that the duplication of the latter evidence through witness testimony should be avoided.

It appears that the bulk of Kilmer's testimony will address arguments he made to the Town Council about town manager Malaguti's planned reorganization of the Planning and Economic Development Department that would eliminate the Associate Planner position then filled by Gandia. The parties reviewed that an audio recording of Kilmer's presentation to the Town Council is available, and his comments lasted approximately one minute. The parties are accordingly directed to prepare a transcript Kilmer's presentation to the Town Council and submit it in lieu of his anticipated testimony on this topic.

There was also brief discussion about a pending grievance based on an alleged contract violation which the Union clarified is the basis for the Union's claim that the Town was required to engage in decisional bargaining with respect to the proposed reorganization plan, and which was the basis for Kilmer's argument to Town Council. The parties were advised that the board likely does not have jurisdiction to hear such a claim in this case where the parties' grievance procedure concludes with final and binding arbitration. See, e.g., *Appeal of Silverstein*, 163 N.H. 192 (2012).

III. Stipulations:

Where possible and appropriate, the parties were encouraged to incorporate the substance of exhibits into their stipulations, thereby reducing the number of exhibits to be submitted into the record.

IV. Opening Statements:

The parties should plan for opening statements of ten minutes or less so that the greatest portion of hearing time possible is devoted to the presentation of evidence.

Date: 11/6/23


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

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