



State of New Hampshire
Public Employee Labor Relations Board

**AFSCME Council 93,
Londonderry Administrative Employees Association**

v.

Town of Londonderry

**Case No. G-0182-6
Decision No. 2024-042**

Appearances: Justin Murphy, Esq. AFSCME Council 93, Boston, Massachusetts
for LAEA, Affiliated with AFSCME Council 93

Elizabeth A. Bailey, Esq., Sheehan Phinney Bass & Green,
Manchester, New Hampshire for Town of Londonderry

Background:

AFSCME Council 93, Londonderry Administrative Employees Association (Union) filed an unfair labor practice complaint on February 1, 2023, as amended on April 10, 2023. The case involves charges that the Town improperly negotiated compensation directly with then associate planner Laura Gandia instead of with the Union,¹ eliminated Gandia's position in retaliation for Union activity, violated its duty to bargain relating to a planning department reorganization plan, and unlawfully sub-contracting of bargaining unit work.² The Union claims violations of the

¹ As to this claim, the Town stipulates that the Town Manager committed an unfair labor practice and engaged in improper direct dealing with respect to the terms and conditions of employment for the planning department associate planner Gandia in violation of RSA 273-A:5, I (a), (b), (c), and (g). See the parties August 17, 2023, Joint Statement of Issues.

² The Union withdrew its claim that the Town improperly failed to respond to the Union's November 1, 2022, request for information relating to improper direct dealing and the Town has withdrawn its request for attorney fees.

following sub-sections of RSA 273-A:5, I, which provide that it is an unfair labor practice for an employer:

- (a) To restrain, coerce or otherwise interfere with its employees in the exercise of the rights conferred by this chapter;
- (b) To dominate or to interfere in the formation or administration of any employee organization;
- (c) To discriminate in the hiring or tenure, or the terms and conditions of employment of its employees for the purpose of encouraging or discouraging membership in any employee organization;
- (e) To refuse to negotiate in good faith with the exclusive representative of a bargaining unit, including the failure to submit to the legislative body any cost item agreed upon in negotiations;
- (g) To fail to comply with this chapter or any rule adopted under this chapter; and
- (i) To make any law or regulation, or to adopt any rule relative to the terms and conditions of employment that would invalidate any portion of an agreement entered into by the public employer making or adopting such law, regulation or rule.

As relief, the Union requests that the board order the Town to:

- a. Cease dominating and interfering with the administration of the Union,
- b. Recognize the Union as the bargaining unit representative,
- c. Cease dealing directly with unit employees instead of with the Union,
- d. Cease retaliating and discriminating in the terms and conditions of employment of employees who exercise their right to union representation,
- e. Negotiate with the union in a timely manner,
- f. Post this decision in the workplace for at least 30 business days,
- g. Reinstate the associate planner position and impact bargain all matters that arise from the adopted reorganizational plan prior to implementation, and
- h. Make the union whole for costs and expenses it has incurred.

According to the Town, apart from the stipulated unfair labor practice, at all relevant times the Town's actions were a proper exercise of management rights, did not involve any violation of the Town's bargaining obligations, and did not constitute improper sub-contracting of bargaining unit work.

The board held an evidentiary hearing on November 17, 2023. Both parties filed post-hearing briefs by the January 17, 2024, deadline. Our decision is as follows.

Findings of Fact

1. The Town is a public employer within the meaning of RSA 273-A:1, X.
2. The Union is the certified exclusive bargaining representative for certain Town employees, including the associate planner. See PELRB Decision 2020-043 (February 19, 2020).
3. Laura Gandia worked for the Town in the Planning and Economic Development Department (planning department) as an associate planner from 2016 until the Town Council approved the elimination of her position on February 6, 2023.
4. The Town hired Michael Malaguti as the new Town Manager in February of 2022. He previously worked for the Town as a police prosecutor and assistant town solicitor. As town manager, Malaguti is responsible for matters such as personnel, budget development and administration, and the operational affairs of the Town.
5. Malaguti hired Kelly (Walsh) Caron to fill the vacant town planner position in July of 2022.
6. The Assistant Town Manager/Human Resources Director (ATM/HR) position became vacant in August and the Town posted the position on October 20. Caron informed Malaguti of her interest but also advised she was also reluctant to leave the planning department. Malaguti then modified the position to Assistant Town Manager/Director of Economic Development (ATM/DED), and it was reposted on November 11, 2022. With the Town Council's approval, Malaguti hired Caron as the ATM/DED and head of the planning department effective December 5, 2022. The human resource duties previously included in the assistant town manager's position were assumed by Tara Koza, who was promoted from benefits administrator to human resource manager.

7. Nick Codner began working in the Town building department as a part-time code enforcement officer in 2017, following a long career operating a local construction company. By October of 2020 he had become the chief building inspector, zoning administrator, and chief health officer.

8. From late August of 2022 through October 26, 2022, Malaguti held a series of meetings with Gandia and Codner concerning the transfer of zoning administrator functions (ZAF) from Codner and the building department to Gandia's associate planner position.

9. Prior to this time, Gandia was regularly involved in discussions and consultations with Codner about plans for proposed projects, plans, and the requirements of the zoning code. She would, for example, identify issues that Codner might have overlooked, and her input could affect Codner's assessment about variance requirements. Codner welcomed and appreciated Gandia's assistance but he and Gandia understood that final staff decisions and actions were his responsibility. To Malaguti, the formal transfer of the ZAF to the associate planner position was a reasonable and logical change given this history.

10. In these meetings, Malaguti addressed a variety of concerns Gandia and Codner raised, including whether it was appropriate for the same person to perform ZAF and existing associate planner duties. Neither Gandia nor Codner fully embraced, accepted, or agreed to the proposed changes during these discussions, but it was Gandia who consistently voiced opposition to Malaguti and, outside of these meetings, to Codner.

11. At their October 26, 2022, meeting, and despite the resistance he was receiving from Gandia and Codner, Malaguti confirmed that he was going to make the zoning administrator change immediately and Gandia would receive additional compensation of \$2,500. Gandia objected to the proposed compensation and the timing of the change, and stated the Union should

be involved. Malaguti responded that Union involvement was unnecessary, but he was willing to speak with the Union.

12. During the final week of October, presumably because of Gandia and Codner's ongoing resistance to the ZAF change, Malaguti began considering a different change to the planning department which evolved to include the elimination of the associate planner position, the new ATM/DED position, and the designation of the ATM/DED as planning department head.

13. On November 1, 2022, Gandia notified employee union representatives about the ZAF discussions, and later that same day, Union Staff Representative Chris Kilmer formally emailed Mr. Malaguti and stated:

Good afternoon. It has been brought to my attention that the Town is significantly changing the role of the associate planner. Could you please provide a copy of the current job description, the updated job description with the newly assigned responsibilities and any and all compensation offers made directly to Laura Gandia for the proposed changes? The Union retains its rights to impact bargain all changes to the job descriptions and assigned duties at this time. Please provide the requested material at your earliest convenience. Thank you in advance.

Chris.

14. Malaguti's reply, sent the next day, stated:

Thank you for your email. It is not, and never was, my intention to "significantly change [] the job responsibilities of the associate planner." If and when I decide to take such action, I will let you know so that we may impact bargain a material change in a union member's job description.

You also may inform Laura that I do not intend to have her fulfill the responsibilities of "Zoning Administrator" as that term has been discussed, regardless of my belief that some or all of those responsibilities fall within the Associate Planner position. Instead, I intend to take a comprehensive look at the our (sic) land use and development departments, including the Planning Department, and determine what I believe is necessary for us to function better internally and to better serve the community's needs.

Thanks again for your email.

Mike.

15. In mid-November, Codner, Malaguti, Caron, John Trottier (Director of Public Works and Engineering) and engineers representing the developer of the "Executive Club" project met to discuss the project. Codner advised that six variances would be required. Afterwards, and following a discussion with and input from Gandia about the distinction between "leased lots" and "lots of record," Codner revised the variance requirement upward to eleven. Later on, Gandia suggested to Codner that the Executive project would not be reached at the December ZBA meeting because of other pending/scheduled matters and the amount of time necessary for the ZBA to review the Executive project application, and perhaps representatives for the project should be informed as a courtesy so they could plan accordingly.

16. On December 1, 2022, Malaguti received a complaint from the Executive project engineer about how Town staff was handling its application and potential delays. One of Malaguti's objectives was to make the Town developer friendly and increase the commercial property tax base to reduce the tax burden on residential properties. He was concerned by the complaint and believed the issues raised were mostly, if not completely, attributable to Gandia's work. Although Gandia had, in substance, opposed taking on the duties and responsibilities of the zoning administrator she was, in Malaguti's opinion, continuing to involve herself in such matters. In short, Malaguti felt Gandia was now unnecessarily interfering in zoning administration issues that were the responsibility of Codner, and she was unjustifiably causing the imposition of additional requirements on Executive project.

17. Emails and meetings followed in which Malaguti scolded Gandia and directed that she should refrain from giving opinions on project variance requirements. He emphasized that any discretion she and Codner had in reviewing project plans should be exercised to make the

approval process proceed more smoothly and in a way that did not impose unnecessary requirements on the project.

18. Given Malaguti's directive, Gandia evaluated the role she should play in, for example, providing staff assistance during zoning board of adjustment (ZBA) meetings as well as how freely she should discuss zoning administration and project plan issues with others as she had routinely done in the past. She became less active and more conservative in these areas.

19. While these events were unfolding, and because he did not want Gandia to be blamed for the increase in the number of variances required, Codner, on his own volition, spoke with Malaguti about the Executive project on December 6, 2022. He told Malaguti that he, and not Gandia, was responsible for the increased variance requirement. He also said Gandia was smart, it would be a shame to lose her, and hopefully it wouldn't come to that. Malaguti responded that this wasn't the issue, and also talked about using any discretion in enforcement of the zoning code in a way that doesn't hinder development. Codner did not agree that staff was hindering development, and after some back and forth, Malaguti advised he would provide additional direction after speaking further with Gandia.

20. Gandia attended the December 21, 2022, ZBA meeting with the planning department land use assistant Beth Morrison and Codner. All three regularly attended ZBA meetings to provide staff support. Normally, as the planning department liaison to the ZBA, Gandia engaged with the ZBA on procedural and substantive issues. However, based on her recent interactions with Malaguti, she understood the ZBA liaison role was under review, and she should limit herself to process issues, and Codner would handle substantive questions. She so advised the ZBA chair shortly before the start of the meeting and sat with Morrison, instead of taking her usual place next to Codner on the other side of the room.

21. The following morning ZBA Vice-Chair Suzanne Brunelle called Malaguti to complain about the lack of staff support at the December 21, 2022, meeting. This prompted Malaguti to have attorney Eric Kilchenstein from the Town's law firm attend the January 18, 2023, ZBA meeting to support the ZBA. Gandia attended as well.

22. By mid-January, Malaguti had finalized a plan to reorganize the planning department, subject to the approval of the Town Council, that eliminated the associate planner position. He informed Gandia on January 19 about the plan and placed her on paid leave pending Town Council action.

23. Malaguti's reorganization plan included following points:

- With the recent creation of the ATM/DED position, the Department now contains two planner positions, the ATM/DED and the Town Planner. While the Town Planner will review the majority of plans submitted to the Department, the ATM/DED will continue to act as a planner with respect to some submissions, particularly submissions that are complex or politically sensitive.
- Because the Town Planner no longer functions as de facto Department Head, the Town Planner has capacity to perform the administrative functions for which the Town Planner is responsible and formerly may have been delegated to the Associate Planner.
- The existence of the ATM/DED and the Town Planner increases the Department's plan review capacity, relieving both positions of sole responsibility for this function and yielding additional workload for other purposes.
- There is a significant overlap between the support functions performed by the Associate Planner and the Land Use Assistant.
- There are redundancies in the support functions performed by the Associate Planner and administrative duties for which the Town Planner is responsible.
- The Associate Planner's role as "ZBA Liaison" is duplicative and unnecessary. ZBA meetings are currently staffed by the Zoning Administrator (Mr. Codner), who attends meetings as this position is responsible for making zoning determinations and advising the board about those determinations... This level of staff support for the ZBA is inefficient and unnecessary. The "ZBA Liaison" function presently served by the Association Planner can be fulfilled with other resources.

- Eliminating the Associate Planner position will save the Town approximately \$145,791.48 per year...

24. Gandia and others spoke against the reorganization plan during the public comment portion of the January 23, 2023, Town Council meeting. She questioned the merits and impact of the plan, and described her role as Associate Planner:

If this position (Associate Planner) is eliminated tonight, the Town will not have a planner in the planning department. The role of the associate planner cannot be underestimated and the work I provide is of significant importance. My role is not one of support. As my job description requires, I interpret and provide technical assistance on planning & zoning statutes, ordinances, procedures and regulations, provide technical plan review, provide legal advice. I have provided the Town Manager and the ATM with technical review and interpretation of zoning ordinances. I am the one who is tasked with the responsibility of all the legal and statutory deadlines for the PB (planning board), ZB (zoning board) and Heritage Commission and serve as staff contact for ZBA and Heritage. I assist with PB and typically draft the design review comments, staff memos, and all notices of decisions. I record all plans of the registry and have a working knowledge of all of the registry procedures. I hold the most institutional knowledge in the planning department which serves as a needed resource. I use my extensive legal knowledge on land use matters for the Town and this eliminates on many occasions the need for the Town to reach out (to) outside counsel for guidance at an incredible savings to the Town. My job functions are distinct from those of the land use assistant...

25. Union staff representative Kilmer provided the following comment at the meeting:

I would just like to point out in reference to the Collective Bargaining Agreement that the employees are currently working under (which) started July 1 of 2020 through June 30th of 2025. Article 3 discusses the recognition the employees that are covered under this bargaining unit, the Associate Planner being one of the ones listed, and that article ends with "the Town further recognizes that the foregoing positions shall remain part of the association for the duration of this agreement." So, I would please ask that you take that into account when you are making a decision tonight...

26. Town Council voted to continue action on the reorganization plan to the next meeting, and at their February 6, 2023, meeting Town Council voted to approve the plan.

27. During this time, Malaguti's interactions with Gandia and her husband Chris were tense and unfriendly as Gandia visited town offices to retrieve personal property. This led Malaguti to obtain no trespass orders to keep the Gandias away from Town offices. Malaguti

withdrew these orders in early May of 2023, following the intervention of the American Civil Liberties Union of New Hampshire on behalf of the Gandias.

28. The vacant town planner position was posted in early January, and the Town retained Southern New Hampshire Planning Commission to provide town planner services until a new town planner was hired in September of 2023.

29. By letter dated January 31, 2023, Union staff representative Kilmer wrote Malaguti that:

The Town has failed to advise AFSCME Council 93, Local 291 (the "Union") as you indicated in your November 2, 2022, email response to me as the exclusive representative, of your intention to reorganize the Planning and Economic Development Department as outlined in your January 19, 2023, letter to Laura Gandia. The Union reminds the Town of its obligation under N.H. RSA 273-A including, but not limited to, the obligation to provide advanced notice with the ability to bargain all impacts caused by this proposed reorganization prior to implementation. Should the Town fail to comply with its obligations, consider this notice of the Union's intention to file an Unfair Labor Practice charge(s).

The Union stands ready to uphold our member's statutory and contractual rights related to their job descriptions along with all the terms and conditions of employment with the Planning and Economic Development Department.

The Union is requesting the Town provide dates and times for the Union to consider for and (sic) initial meeting.

30. Malaguti responded to Kilmer by email the same day:

I have received your letter today. The Town is well aware of its obligations. However, it is unclear to me what, specifically, you are requesting. The Town certainly would prefer to avoid unnecessary litigation but we need to better understand your specific request.

31. The following day Kilmer replied to Malaguti's email:

The Town, based on its action over the past several months, appears to either not understand their obligations or have intentionally ignored them. The intent of my letter was to clarify the Union's expectation, consistent with the rights conferred in N.H. RSA 273-A as the exclusive representative. Based on those rights, come the Town obligations you suggest you are well aware (sic). That being the case, the union will wait and see if you or the Town actually understand(s) those obligations. The Union merely requests the Town of Londonderry to comply with its statutory obligations.

32. After this exchange there were no further communications between Kilmer and Malaguti on this topic. However, Kilmer subsequently determined that the reorganization and elimination of the associate planner position did not impact other bargaining unit positions represented by the Union. By email to counsel for the parties in March of 2023, he confirmed that all potential job description impacts had been addressed.

Decision and Order

Decision Summary:

As stipulated, the Town committed an unfair labor practice in violation of RSA 273-A:5, I (a), (b), (e), and (g) and engaged in improper direct dealing with the associate planner Gandia, a represented bargaining unit employee, concerning the terms and conditions of employment. The remaining claims are dismissed.

Jurisdiction:

The PELRB has primary jurisdiction of all alleged violations of RSA 273-A:5, *see* RSA 273-A:6.

Discussion:

- I. Was the Town's elimination of the associate planner position illegal retaliation against Laura Gandia a violation of RSA 273-A:5, I (a) and (c)?

Our analysis of the Union's illegal retaliation claim is governed by *Appeal of Professional Firefighters of East Derry, Local 3353, IAFF*, 138 N.H. 142 (1994), which provides as follows:

[T]o establish an unfair labor practice under federal law, the union must prove by a preponderance of the evidence that the discharge or elimination was motivated by a desire to frustrate union activity. The employer can meet the union's evidence of retaliatory motivation with its own evidence, as an employer's motivation is a question of fact to be determined by the board from the consideration of all the evidence. If the board finds by a preponderance of the evidence that the employer was unlawfully motivated to some

degree, an employer can still avoid being adjudicated a violator of federal law by proving by a preponderance of the evidence that regardless of the unlawful motivation, the employer would have taken the same action for wholly permissible reasons. What the union has termed a shifting burden of proof actually only extends to the employer what the Board considers to be an affirmative defense but does not change or add to the elements of the unfair labor practice that [the union] has the burden of proving.

We agree that the federal standard, correctly interpreted, represents a well-reasoned, workable test, and accordingly we adopt it. Our adoption of the federal standard is consistent with our earlier discussion in *Appeal of White Mts.*, 125 N.H. 771 (1984). There we held that, in light of the federal experience, the PELRB correctly placed on the [union] a burden to prove some minimal degree of retaliatory motivation in order to establish an unfair labor practice under RSA 273-A:5... This burden cannot be met simply by the union making a claim of retaliation and producing some evidence to support the claim. It must prove by a preponderance of the evidence some element of retaliatory action. This language is consistent with the federal standard, and its adoption requires no break with our prior holdings.

Id. at 144-45 (quotations and citations omitted).

In *East Derry* the court upheld the PELRB's determination that "the elimination of the part-time clerk/dispatcher position fell within the managerial policy prerogative exception of RSA 273-A:1, XI (1987)³, and that ""there was insufficient evidence of any impermissible nexus between the job elimination and the incumbent's union activities."" *Id.* at 144 (footnote added). We reach the same conclusion in this case. Malaguti's reorganization plan is dated January 20, 2023, nearly three months after the Union's involvement in the ZAF change issue. The no trespass orders issued a week later, and Town Council approved the reorganization plan in February. Several months had passed between the conclusion of the ZAF change discussions, related Union involvement, and the alleged retaliatory action. Moreover, Malaguti began considering a reorganization plan that did not involve a shift in ZAF to the associate planner during the last week of October, before the Union's involvement. He was certainly

³ "Managerial policy within the exclusive prerogative of the public employer" includes, but is not limited to, "the functions, programs and methods of the public employer, including the use of technology, the public employer's organizational structure, and the selection, direction and number of its personnel, so as to continue public control of governmental functions." See also, e.g., *Appeal of Kennedy*, 162 N.H. 109 (2011); *Appeal of Hillsboro-Deering School District*, 144 N.H. 27 (1999).

entitled to begin considering other options, even though he had told Gandia and Codner the ZAF change was going to happen.

Although Malaguti was clearly frustrated by Gandia and Codner's refusal to embrace the ZAF change, this seems minor when compared to his reaction to Gandia's Executive project activity. The reorganization plan itself also involved more than the elimination of the associate planner position. The former town planner was now the ATM/DED and head of the planning department. This, together with the continuation of the town planner position, diminished the need for an associate planner per Malaguti's explanations to the Town Council. We also note that Kilmer's presentation to the Town Council focused on a claimed violation of the collective bargaining agreement, and Gandia opined about flaws in the plan and the importance and value of her work as associate planner. Neither one raised or discussed retaliation issues at this time. In fact, it appears that the Town Council was not familiar with the ZAF discussions and the Union's related involvement at the time it approved Malaguti's reorganization plan.

In summary, after weighing the evidence submitted in this case, we conclude the Union did not prove, by a preponderance of the evidence, some element of retaliatory action. As was true in *East Derry*, the elimination of the associate planner position falls within the managerial policy prerogative exception of RSA 273-A:1, XI. This claim is therefore dismissed.

- II. Did the Town violate its duty to bargain and otherwise commit an unfair labor practice because of the way the Town reorganized the Planning and Economic Development Department and eliminated the Associate Planner position in violation of RSA 273-A:5, I (b), (c), (e), (g), and (i)?

The Town is obligated to negotiate in good faith the "terms and conditions of employment" with the Association. Terms and conditions of employment are:

[W]ages, hours and other conditions of employment other than managerial policy within the exclusive prerogative of the public employer or confided exclusively to the public employer by statute or regulations adopted pursuant to statute. The phrase "managerial

policy within the exclusive prerogative of the public employer" shall be construed to include but shall not be limited to the functions, programs and methods of the public employer, including the use of technology, the public employer's organizational structure, and the selection, direction and number of its personnel, so as to continue public control of governmental functions.

RSA 273-A:1, XI. See also *Appeal of State*, 138 N.H. 716 (1994)(3 step bargaining test used to determine whether a particular proposal or action is a mandatory, permissive, or prohibited subject of bargaining). The reorganization plan in this case is like the one at issue in *Appeal of Kennedy*, 162 N.H. 109 (2011)(elimination of school district band program and related non-renewal of music teacher was a reorganization within the district's managerial prerogative). It is distinguishable from those evaluated in *Appeal of Hillsboro-Deering School District*, 144 N.H. 27 (1999)(school district could not lawfully terminate bargaining unit employees during term of CBA and subcontract their work) and *Appeal of Nashua*, 141 N.H. 768 (1997)(invalid reorganization where city replaced bargaining unit employees with sub-contractors performing the same work for less money).⁴ In accordance with these decisions and *Appeal of Professional Firefighters of East Derry, Local 3353, IAFF*, 138 N.H. 142 (1994), the elimination of the associate planner position falls within the scope of the Town's managerial prerogative under RSA 273-A:1, XI and is a permissive, not mandatory, subject of bargaining.

As to any claim that the Town failed to impact bargain the effects of the reorganization plan on other bargaining unit members' terms and conditions of employment, we find the January 31, 2023, to February 1, 2023, exchange between Kilmer and Malaguti, is, by itself, insufficient to prove such a claim. In these communications, Kilmer stops short of describing the specific effect(s) the elimination of the associate planner position will have on working conditions of other bargaining unit members, and he does not clearly request meetings to begin

⁴ We reject any argument that attorney Kilchenstein's attendance at the January 18, 2023, ZBA meeting constituted the kind of sub-contracting of bargaining unit work discussed in *Hillsboro-Deering* and *Nashua*.

negotiations. This is not surprising given his subsequent determination and confirmation that other represented bargaining unit positions were not impacted by the reorganization, and there was nothing to address through impact bargaining.

Accordingly, the Union's claim that the Town violated its duty to bargain and otherwise committed an unfair labor practice because of the way the Town reorganized the planning department and eliminated the associate planner position is without merit. This claim is dismissed.

III. Did the Town illegally sub-contract bargaining unit work to the Town's law firm without providing notice or an opportunity to bargain to the Union in violation of RSA 273-A:5, I (b), (c) (e) and (g)?

The appearance of attorney Kilchenstein, an attorney from the Town's law firm, at the January 18, 2023, ZBA meeting did not constitute illegal sub-contracting of bargaining unit work. The record does not include much detail about the services attorney Kilchenstein actually provided at this meeting. Also, at this stage, the nature and extent of the associate planner's duties at ZBA meetings was unclear, as they appear to have changed in December. Further, Gandia was also present at this meeting, as she was at the December meeting. It was not until the next day that Malaguti informed her about the reorganization plan and placed her on paid leave. Moreover, attorney Kilchenstein's attendance was necessitated by a complaint from the ZBA vice-chair, and there is no evidence that the Town ever hired attorney Kilchenstein to provide the same services Gandia did when she served as the full-time associate planner. There was no unlawful sub-contracting in this case as occurred in *Appeal of Hillsboro-Deering School District*, 144 N.H. 27 (1999) and *Appeal of Nashua*, 141 N.H. 768 (1997). This claim is dismissed.

In summary, the Town stipulated that it committed an unfair labor practice on account of Malaguti's dealings with Gandia over proposed compensation changes to the associate planner

position. This violation of RSA 273-A:5, I (a), (b), (e), and (g) is based on the law's fundamental requirement that the Town must negotiate the terms and conditions of employment, like wages, with the bargaining unit's exclusive representative, the Union in this case, and not negotiate directly with individual employees. The remaining claims are dismissed. As relief, we order the Town to:

- a. Cease dominating and interfering with the administration of the Union,
- b. Recognize the Union as the bargaining unit representative,
- c. Cease dealing directly with unit employees instead of with the Union, and
- d. Post this decision in the workplace for at least 30 business days.

So ordered.

Date: March 29, 2024

/s/ Peter G. Callaghan
Peter G. Callaghan, Esq.
Chair/Presiding Officer

By unanimous vote of Alternate Chair Peter G. Callaghan, Esq., Board Member Glenn A. Brackett, and Board Member James M. O'Mara, Jr.

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