

BEFORE THE BOARD OF TRUSTEES OF THE
TINLEY PARK POLICE PENSION FUND

IN THE MATTER OF THE)
RETIREMENT CLAIM OF:)
)
DEPUTY CHIEF CHARLES FARICELLI,)
)
Applicant.)

November 12, 2020
6:02 p.m.

(Volume II - Pages 9 - 62)

REPORT OF PROCEEDINGS had before the Board
of Trustees of the Tinley Park Police Pension Fund,
taken before Pamela L. Cosentino, Certified Shorthand
Reporter, at 7850 West 183rd Street, Tinley Park,
Illinois, at the hour of 6:00 p.m.

1 A P P E A R A N C E S:

2 BOARD OF TRUSTEES PRESENT:

3 RAYMOND VIOLETTO, Board President

CARL LINDOKKEN, Trustee

4 TIMOTHY EHLERS, Trustee

FREDERICK MONDT, Secretary

5

6 BOARD COUNSEL & HEARING OFFICER:

7 MR. RICHARD J. REIMER

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1 PRESIDENT VIOLETTO: I'm calling the meeting to
2 order at 6:02.

3 MR. REIMER: Can you do the roll call, please.

4 PRESIDENT VIOLETTO: We'll do a roll call.

5 Carl?

6 TRUSTEE LINDOKKEN: Here.

7 PRESIDENT VIOLETTO: Fred?

8 TRUSTEE MONDT: Here.

9 PRESIDENT VIOLETTI: Myself, here.

10 Tim?

11 TRUSTEE EHLERS: Here.

12 PRESIDENT VIOLETTO: And we have one vacant spot.

13 MR. REIMER: Quorum is present. This is a hearing
14 being conducted pursuant to Article III of the Illinois
15 Pension Code to determine the amount of retirement
16 benefits of the Applicant, Deputy Chief Charles
17 Faricelli.

18 The Deputy Chief was previously sent a notice
19 of hearing advising him of these proceedings on this
20 date, advising him of his right to be represented by
21 legal counsel, to present any evidence, and to respond
22 to any evidence before the Tinley Park Police Pension

1 Fund.

2 Deputy Chief, do you acknowledge receipt of
3 the Notice of Hearing, and are you ready to proceed?

4 DEPUTY CHIEF FARICELLI: Sure.

5 MR. REIMER: Thank you.

6 The first motion I'd like the Board to make
7 is a motion to appoint me the hearing officer. All
8 that really means is I'll preside over the hearing;
9 I'll make sure everything runs in an orderly fashion.
10 If the Board gets to deliberations today, I'll attend
11 the deliberations if you want me to. Ultimately, I
12 will prepare any filed written decision order that's
13 necessary.

14 But as that hearing officer, I'm not here as
15 a prosecutor; I'm not here to vote. That's why you all
16 get the big bucks. I'm here just to make sure we make
17 a good record, and whatever decision you make, if
18 there's a challenge to it, we can defend it.

19 So I would ask, do you have any objections,
20 Deputy Chief, to that?

21 DEPUTY CHIEF FARICELLI: No.

22 MR. REIMER: I would ask for a motion to appoint me

1 the hearing officer.

2 PRESIDENT VIOLETTA: Okay. I motion for Attorney
3 Richard Reimer to be the hearing officer for the
4 hearing for Deputy Chief Faricelli's pension.

5 Do I have a second?

6 TRUSTEE LINDOKKEN: I second.

7 PRESIDENT VIOLETTA: All in favor "aye"?

8 BOARD MEMBERS: (In unison) Aye.

9 PRESIDENT VIOLETTA: Any opposed?

10 Motion carries.

11 MR. REIMER: Thank you.

12 To try to get this -- to try to expedite
13 this, because I know everybody's got other things to
14 do, so the record should reflect that this matter was
15 commenced and continued from July 23, 2020. As you'll
16 recall, the Board requested a subpoena be issued. The
17 subpoena was issued, served upon the Village; the
18 Village did file a timely response.

19 As a result of that, we were able to obtain
20 what we have as Board Exhibit Number 1 through 9.
21 Board Exhibit Number 1 through 9 has been submitted to
22 each of the four trustees for their review prior to

1 today's hearing, subject to any objection you have.

2 And at the last pension board meeting, I tendered a
3 copy to you of Board Exhibit Number 1 through 9.

4 Do you have any objection to admission of
5 Board Exhibit Number 1 through 9?

6 DEPUTY CHIEF FARICELLI: No.

7 MR. REIMER: Make sure you keep your voice up. I
8 know we're all kind of gagged here, but she's got to
9 take down everything we do.

10 So the record should reflect that Board
11 Exhibit Number 1 through 9 are made part of the
12 administrative record.

13 In addition, today, I have what we've marked
14 as Board Exhibit Number 10 and Board Exhibit 11. The
15 Board has copies of that. I've tendered a copy to you
16 as well as the witness, who we'll hear from in a
17 minute.

18 Do you have any objections to Board Exhibit
19 Number 10 and Number 11?

20 DEPUTY CHIEF FARICELLI: No.

21 MR. REIMER: Board Exhibit 10 and 11 will be
22 admitted into the record without any further

1 **A. The Village Manager for Tinley Park.**

2 Q. Before I get into more about what your duties
3 are, you're here pursuant to a subpoena; is that
4 correct?

5 **A. Correct.**

6 Q. For which we thank you.

7 So how long have you been the Village Manager
8 for the Village of Tinley Park?

9 **A. Since 2014.**

10 Q. And what, generally, are the duties of the
11 Village Manager?

12 **A. I set to oversee the day-to-day operations of**
13 **the Village.**

14 Q. So fair to say you would be the highest
15 full-time employee in charge of the department on a
16 day-to-day basis -- in charge of the Village?

17 **A. Yes.**

18 Q. As part of your job duties then, do you have
19 any responsibility as it relates to awarding
20 noncontractual management employees pay raises?

21 **A. Yeah. I mean, I have a role in that, yes.**

22 Q. So can you just tell us, tell the Board,

1 what's your role?

2 How do you, as the Village Manager, determine
3 whether a gentleman like Deputy Chief Faricelli gets a
4 pay raise and, if so, how much? I think that's what
5 the Board needs to know.

6 **A. Sure. Well, there's multiple ways for an**
7 **employee to get an increase. Some of it is based on**
8 **annual wage adjustments of the pay scales, which is**
9 **actually reviewed every year and actually has to be**
10 **approved by the Board of Trustees.**

11 **Employees are also eligible -- somebody, as**
12 **the deputy chief's case, is also eligible for a merit**
13 **increase, so he has to go through a performance**
14 **evaluation. There's recommendations made by his**
15 **supervisors that I have to sign off on. So that merit**
16 **increase could be arranged depending on how well he**
17 **does on the performance evaluation.**

18 **Q. I'm going to show you some documents. I'm**
19 **going to approach -- I apologize. I'll wear my mask.**

20 **A. Sure.**

21 **Q. We're in unique times here.**

22 **I'm going to show you what I've marked as**

1 Board Exhibit Number 6. I apologize. You don't have
2 that in front of you.

3 MR. REIMER: You didn't bring your copy, Deputy
4 Chief?

5 DEPUTY CHIEF FARICELLI: No.

6 BY MR. REIMER:

7 Q. I'm going to show you Board Exhibit Number 6
8 on Page 57 and ask you, Mr. Niemeyer, if you can tell
9 me if you're familiar with this document?

10 I'm going to stand back while you take a look
11 at it.

12 So just direct your attention to Page 57.

13 **A. Yes. So this is the annual pay scales that I**
14 **was referring to in my previous testimony.**

15 Q. And this is actually set by ordinance, which
16 would pay the Village Board voting?

17 **A. Yeah, they do vote on this. Yes.**

18 Q. And I'm going to ask you to direct your
19 attention, if I could, sir, to Page 64. It's
20 Appendix B. Does this appear to be the paid range
21 that was set by ordinance?

22 And that was for ordinance that would have

1 ended fiscal year April 30th of 2020, correct?

2 **A. Yes. This is -- it appears it's the pay**
3 **grade document.**

4 Q. And what is the range for the deputy chief's
5 position?

6 **A. Its beginning base is \$117,041, and the**
7 **maximum base is \$148,988.**

8 Q. Now, after that ordinance expires April 30th,
9 did the Village enact a subsequent ordinance?

10 **A. A subsequent to this, no.**

11 Q. Yes. In other words, was there an ordinance
12 that would have followed for adjustments to any
13 salaries effective -- for non-bargaining unit
14 employees, so such as management, professional
15 positions?

16 So was there another appendix or another
17 ordinance drafted that would take effect after
18 April 30th of 2020?

19 **A. Not that I remember.**

20 Q. Now, you also talked about merit raise. So
21 I'm going to direct your attention to Board Exhibit
22 Number 7.

1 **A. Okay.**

2 Q. Take a look at that. Tell me if you
3 recognize that.

4 **A. Yeah. This is our management merit**
5 **evaluation form. So it looks like this is the one**
6 **that was done for the deputy chief.**

7 Q. And is that for any increase or just a merit
8 increase?

9 **A. That's just for the merit increase.**

10 Q. If an employee gets a merit increase, does
11 that employee -- does that merit increase
12 automatically carry over from year to year?

13 **A. If it's -- yes, yes. If it's -- yes.**

14 Q. So --

15 **A. If there's a situation where there's a bonus,**
16 **it's different. But the typical is it's added to your**
17 **base salary, yes.**

18 Q. So can you use an example, round numbers?

19 If Deputy Chief gets a \$5,000 bonus this
20 year, had he not retired, next year, would that \$5,000
21 be built into his base salary?

22 **A. Well, you used the term "bonus." If it's a**

1 **bonus, it's not built into the base salary.**

2 Q. If it's merit?

3 **A. If it's merit increase, it would be added to**
4 **the base salary.**

5 Q. Okay. Is that -- is there some document that
6 establishes that? Is there some kind of a policy or
7 procedure, an ordinance? What would that be, sir?

8 **A. Yes, yes. And, in fact -- I mean, I don't**
9 **have it in front of me obviously. But there was a --**
10 **because this is actually -- it's a fairly new policy.**
11 **We just established an all-merit system for the**
12 **department, really, in the last two years. And so**
13 **there is a document that kind of outlines how**
14 **management employees get increases based on that.**

15 Q. Okay. And, as I understand you, that would
16 establish that the merit increase given to an
17 employee, not a bonus, would become part of salary?

18 **A. Right.**

19 Q. What's that called again?

20 **A. What's the name of the document?**

21 Q. Yes, sir.

22 **A. You know, off the top of my head, I don't**

1 remember. But when we basically developed the new
2 merit system for management employees, we developed
3 guidelines for the supervisors that were implementing
4 it.

5 Q. Understood.

6 A. So I don't know that it's called that, but
7 it's basically the document. And I'm sure we'd be
8 glad to get you a copy of that.

9 Q. We don't have that.

10 A. Okay.

11 Q. We would like to see a copy.

12 A. Yeah. I'd be glad to get you that.

13 Q. I'm almost done here.

14 So what I'm trying to figure out now, if I
15 direct your attention to Board Number 8, specifically,
16 Page 80, now, I went to law school because they told
17 me there would be no math involved; they lied. But it
18 looks to me that this is the payroll change form for
19 the deputy chief dated June 1, 2020, right?

20 Do you agree with that?

21 A. Yes, that looks like it. Yeah, okay.

22 Q. Would you have had to approve that?

1 **A. Well, the Deputy Village Manager, because he**
2 **oversees Public Safety sometimes, that's his**
3 **signature.**

4 Q. But he has the authority to do that?

5 **A. Yeah, he does. Yes, yes.**

6 Q. So it appears that the pay change would have
7 brought Deputy Chief Faricelli up to \$149,099.78. Is
8 that --

9 **A. That's what the form says.**

10 Q. So does that exceed the \$148,988 range for
11 Appendix B on Page 64?

12 **A. That is higher, yes.**

13 Q. Do you know why or how that happened?

14 **A. I'd have to go back. I mean, off the top of**
15 **my head --**

16 Q. You don't know?

17 **A. Yeah, yeah.**

18 Q. Okay. Thank you.

19 Let me ask you a couple other questions.

20 **A. Sure.**

21 Q. I think you have in front of you, sir, Board
22 Exhibit Number 10?

1 **A. Yes.**

2 Q. Is this a memo that you issued to all
3 employees?

4 **A. Yes.**

5 Q. That's dated April 8, 2020, right?

6 **A. Yes.**

7 Q. What was the purpose of this memo?

8 **A. Well, this was the beginning of the COVID-19**
9 **pandemic, and it was a memo to all employees basically**
10 **notifying them of several budget changes that we were**
11 **making due to the pandemic.**

12 Q. And I take it this is in anticipation of
13 potential loss of various revenue streams without the
14 Village?

15 **A. Yes.**

16 Q. Did the ship ever write itself?

17 **A. Well, it's -- it's -- it's -- we had to make**
18 **a lot of changes --**

19 Q. Understood.

20 **A. -- and certainly it's not done. As we know,**
21 **the pandemic is far from done. So I would say it's a**
22 **work-in-progress.**

1 Q. Was there -- were there any other employees
2 that you know -- after you issued the April 8, 2020,
3 memo, which is Board 10, were there any other
4 employees that got pay raises, like the deputy chief
5 did, either merit or otherwise?

6 A. After what date did you say?

7 Q. After April 20th of -- April 8th of 2020?

8 A. So, basically, we -- after -- if an employee
9 was still being evaluated, their evaluation period was
10 before May 1st, they were still eligible for an
11 increase. If somebody had an evaluation, say, that
12 was due May 15, 2020, they would not, because we've
13 essentially put a freeze on it.

14 So the short answer is yes. I mean, if an
15 employee, let's say, had an anniversary date of
16 April 15th, their evaluation might not still have been
17 done by June 15th. So, yes, there's still -- in fact,
18 I know there was because I've signed some.

19 TRUSTEE LINDOKKEN: We actually have two
20 Exhibits 10 and two Exhibits 11, because this package
21 has on its second page -- you might want to make sure,
22 just to make sure, references are correct.

1 MR. REIMER: Board Exhibit Number 10 will be -- so
2 make this -- Board Exhibit Number 10 will now be Board
3 Exhibit Number 12, and Board Exhibit Number 11 will be
4 Board Exhibit Number 13.

5 BY MR. REIMER:

6 Q. So, Mr. Niemeyer, the questions that I ask
7 you related to Board Exhibit Number 10, which is now
8 12, your answers would be the same?

9 A. Okay.

10 Q. Is that true? I don't want to put words in
11 your mouth?

12 A. This is 12? Yes.

13 Q. Now, take a look at what we now believe is
14 Board Number 13. What is this?

15 A. Well, this is a newsletter that I sent out to
16 employees on a periodic basis that addresses kind of
17 current issues going on in the Village.

18 Q. Was there reference here to an employee wage
19 freeze?

20 A. Well, let me look.

21 Yes, there's a reference in the fourth
22 paragraph: No cost of living adjustments and no step

1 **or merit increases for non-collective bargaining**
2 **employees.**

3 Q. So the deputy chief would be obviously exempt
4 in a non-collective bargaining position, correct?

5 **A. Correct.**

6 Q. Now, if I understood you correctly, because
7 the ordinance related to increases for non-collective
8 bargaining personnel, management such as the Deputy
9 Chief here, there was never a successor ordinance
10 adopted, correct?

11 **A. Correct.**

12 Q. So the Deputy Chief then retired after
13 May 1st of 2020, so you don't know exactly why his
14 amounts would be greater than the ordinance?

15 **A. I'd have to check. Not off the top of my**
16 **head.**

17 Q. Do you know who would have made that
18 decision?

19 **A. Well, we basically -- we would have relied on**
20 **our human resources basically calculate the numbers**
21 **and it would be presented. As I said, for Public**
22 **Safety, sometimes the documents are signed by the**

1 **assistant manager, sometimes me, and for non-Public**
2 **Safety, they would all be signed by me.**

3 Q. Would there be any documents that would
4 memorialize the methodology used to determine how
5 Deputy Chief's pay got to be where it was?

6 A. I mean, I don't know. I could certainly
7 check. But, yeah, it would be in our human resources
8 department.

9 Q. And, honestly, he should get absolutely
10 everything he's entitled to. We're just trying to
11 make sure the Board fulfills his fiduciary duty, and
12 he gets everything he's got coming. So please don't
13 take offense?

14 A. No. I understand.

15 Q. So I'm going to show you another document,
16 Board Exhibit Number 1. We got the right number? You
17 take a look at that.

18 Are you familiar with that document? I know
19 your signature doesn't appear on it.

20 A. I mean, the specific document, no, I'm not
21 familiar with it.

22 Q. So that's something that this document, Board

1 Exhibit Number 1, wouldn't necessarily have come
2 across your desk?

3 **A. No.**

4 MR. REIMER: Gentlemen, that's all I have. I don't
5 know -- I don't know that you're going to be able to
6 answer the questions you need to answer unless we get
7 some of those other documents.

8 BY MR. REIMER:

9 Q. Is there somebody I could talk to -- I
10 understand it wouldn't be tonight. But is there
11 somebody that I could talk to that we could -- your
12 village attorney?

13 **A. In terms of getting -- well, tell me -- just**
14 **tell me basically how do we calculate the wage --**

15 Q. Right. I think two things. Tell me if I'm
16 wrong.

17 PRESIDENT VIOLETTO: Wasn't that part of the
18 subpoena?

19 MR. REIMER: It wasn't. I didn't see it.

20 BY MR. REIMER:

21 Q. So I know you mentioned that there was some
22 kind of a document, and you admitted you weren't sure

1 what the name was, but that you used to --

2 A. Oh, yeah, that? Honestly, that we can -- I
3 can get you. If not tomorrow, definitely by early
4 next week.

5 Q. Then any other documents that might shed some
6 light on how Deputy Chief's --

7 A. Yes. I will look at that. I mean, and I
8 know these guys are aware of it. So the person that
9 was involved in the calculation is no longer employed
10 for the Village. It doesn't mean that there isn't
11 some document somewhere that explains it. But it's
12 not necessarily something I may not be as easy to find
13 as the other one.

14 The other one, I know where it's at, and that
15 actually would be fairly easy to find.

16 Q. Did you have any -- I know you got a lot of
17 things to do. I don't know how many employees,
18 hundreds of employees I'm sure you have here.

19 A. Yeah.

20 Q. Did you play any part in compiling the
21 documents that were sent to the Board in response to
22 the subpoena?

1 **A. I did not, no.**

2 MR. REIMER: That's all I have.

3 So, gentlemen, this is your opportunity to
4 ask Mr. Niemeyer questions related to this matter.

5 PRESIDENT VIOLETTO: I don't have any questions. I
6 don't understand why the document wasn't provided per
7 the subpoena. I don't know.

8 Are you trying to infer that it's Denise who
9 isn't here no more?

10 THE WITNESS: Yes.

11 PRESIDENT VIOLETTO: Because this is signed by
12 Paul Wegner and Brad.

13 THE WITNESS: Right. But Denise would have
14 probably been involved in the calculations, so.
15 That's --

16 MR. REIMER: I'm sorry. What's Denise's name, sir?

17 THE WITNESS: Maiolo. She's the former human
18 resources director.

19 MR. REIMER: I'm sorry?

20 THE WITNESS: She's the former human resources
21 director.

22 MR. REIMER: I'm sorry. I didn't get her last

1 name.

2 THE WITNESS: Maiolo, M-a-i-o-l-o.

3 MR. REIMER: Thank you?

4 Members of the Board, any questions?

5 TRUSTEE MONDT: No.

6 PRESIDENT VIOLETTO: No.

7 TRUSTEE LINDOKKEN: No.

8 BY MR. REIMER:

9 Q. Maybe just a follow-up question.

10 **A. Sure.**

11 Q. When the Village has to do an appropriation
12 ordinance every year, so that's not due until coming
13 up here in December, correct, when you have to file
14 with the County?

15 **A. Well, we don't -- we don't -- it's not an**
16 **appropriation ordinance. We're on a budget system.**

17 Q. Got it. Okay.

18 And I'm kind of familiar with budgets, but
19 when you file that document with the County, after you
20 adopt it or the City Council or Village Board adopts
21 that, does it have a line item for gross salaries in
22 the police department administration, or does it have

1 like a line item for each individual position, such as
2 the deputy chief?

3 A. It's basically by division in the department.
4 It's not -- and I'm familiar with appropriation
5 ordinances. It's -- there's a lot more flexibility
6 with a budget.

7 For example, his position, there's line items
8 for salaries within the management department. Patrol
9 would be a different division, so.

10 Q. So unlike a Collective Bargaining Agreement
11 where I could go look at a Collective Bargaining
12 Agreement and determine by date of hire and years of
13 service, I could determine what somebody's salary is,
14 the same would not be true from your budget document
15 if I was trying to find out what the salary of your
16 deputy chief here was. Is that accurate?

17 A. Correct. You would not find that in the
18 budget. And, again, remember, on our system, even
19 going into a budget, now that we're -- part of the
20 salary is based on merit, we don't know what it is
21 necessarily until that evaluation time.

22 Q. Understood.

1 **A. So.**

2 MR. REIMER: Okay.

3 EXAMINATION

4 BY TRUSTEE EHLERS:

5 Q. I got a couple of questions.

6 Just looking at the timeline, now, the
7 evaluation was done in April of 2020, correct?

8 **A. Correct.**

9 Q. And it was in which fiscal year? That would
10 be --

11 **A. The last fiscal year.**

12 Q. Last fiscal year.

13 The two documents, Number 13 and 12, where it
14 indicates that there's a freeze on merit increases and
15 increases, which fiscal year does that apply?

16 **A. May 1st.**

17 Q. May 1st?

18 **A. Yeah.**

19 Q. Of which year?

20 **A. That's what I was saying earlier, that
21 anybody that had an evaluation due before May 1st
22 still got an increase. So because his was before**

1 **May 1st, he was still eligible.**

2 Q. Was that the regular time period where the
3 evaluation would have been done? Was it every year in
4 April?

5 A. I think that was -- again, based on the
6 anniversary date, yes, yes. This guy probably could
7 answer better than I could.

8 DEPUTY CHIEF FARICELLI: Yeah. I just didn't want
9 to say anything. But, yes, I got my raise effective
10 April 30th every year.

11 THE WITNESS: Yeah. Okay.

12 MR. REIMER: I promise you you're going to get more
13 than ample opportunity.

14 TRUSTEE EHLERS: Just wanted to get the timeline
15 set.

16 MR. REIMER: Do you have more? This is your
17 opportunity here.

18 BY TRUSTEE EHLERS:

19 Q. So the freeze applied to any merit increases
20 after May 1, 2020?

21 A. The freeze actually applied -- this is kind
22 of a reference here. There's neither no cost of

1 living nor step increases. Or -- well, merit
2 increases in the case of the deputy chief.

3 Q. Is there a difference between step increase
4 and merit increase?

5 A. The merit increase is one that has to be
6 earned based on performance. A step is automatic.

7 Q. Step is automatic?

8 A. Yep. Yep. Yep.

9 TRUSTEE EHLERS: That's all I have.

10 FURTHER EXAMINATION

11 BY MR. REIMER:

12 Q. Do you mind if I ask another one to try to
13 clarify.

14 So as I understand it then, because the
15 salary increases, if applicable, you're going to award
16 salary increases, it's done based upon -- to
17 management people, it would be done based on his
18 anniversary date?

19 So because of his anniversary date and his
20 performance evaluation being done prior to the May 1st
21 date, he would still be eligible under -- for whatever
22 pay raise he was going to get. Correct?

1 **A. Yes.**

2 Q. And that's notwithstanding the fact that
3 there had been no successor ordinance establishing
4 salary?

5 **A. Well, again, because we were still in the**
6 **same fiscal year.**

7 Q. But -- and maybe I'm just not getting it. If
8 the -- if the salary range was set by ordinance --
9 give me a minute here. It looks like -- and I can
10 show it to you again.

11 Exhibit B, it's on Page 64, and that would
12 have expired April 30th of '20. The cap on -- if I'm
13 reading this correctly -- I'll be happy to show it to
14 you.

15 **A. Right.**

16 Q. It looks like Deputy --

17 PRESIDENT VIOLETTO: It's at the bottom.

18 MR. REIMER: Yep.

19 BY MR. REIMER:

20 Q. So Deputy Police Chief, the maximum would
21 have been 148,988, right? So under what -- I guess
22 under what circumstances or authority would you have

1 to award a base salary, a merit, whatever you want to
2 call that, beyond that, absent an ordinance?

3 I think that's what the Board is --

4 **A. Yeah, and --**

5 Q. You don't know?

6 **A. You know, again, I had a general idea of what**
7 **you might have asked me tonight, but I wasn't -- I**
8 **thought -- I didn't realize that was going to be one**
9 **of the questions.**

10 Q. Okay. Fair enough.

11 **A. I'd be glad to certainly look and then I**
12 **think we could probably figure it out. But I just --**
13 **I don't want to sit here and speculate because it**
14 **would just be that, speculation.**

15 Q. I understand that. Nobody wants to waste
16 your time. That's all we're trying to do, figure out
17 how this happened. And there may be a very logical,
18 legal explanation for it.

19 **A. Yep. Yep. Yep.**

20 MR. REIMER: Gentlemen, does that prompt anything
21 else, any questions?

22 PRESIDENT VIOLETTA: No, none from me.

1 MR. REIMER: So you get an opportunity now to
2 cross-examine your former boss. Do you want to take
3 that?

4 DEPUTY CHIEF FARICELLI: I think he explained it
5 very well.

6 EXAMINATION

7 BY DEPUTY CHIEF FARICELLI:

8 Q. The merit restrictions came after I had
9 already been awarded my merit raise. Would that be
10 accurate?

11 A. Uh-huh.

12 Q. And when we talk about base salary, that is
13 base hourly rate? That doesn't include any of the
14 other things that may be pensionable that aren't part
15 of my base? That is my base hourly rate? That
16 doesn't include holiday check or any of those other
17 things that go into the pension formula? That is just
18 the base rate or base hourly rate, not necessarily
19 things that other people obviously --

20 A. Just your salary.

21 Q. Yeah, just my hourly rate.
22

1 FURTHER EXAMINATION

2 BY MR. REIMER:

3 Q. And that's what is reflected in that
4 appendix, is the base rate --

5 DEPUTY CHIEF FARICELLI: Right.

6 BY MR. REIMER:

7 Q. -- exclusive of anything else he may be
8 entitled to?

9 A. **Yes. It's the salary, yes.**

10 Q. Base.

11 A. **Right.**

12 Q. All right. I think I understand that. And
13 then maybe I lied, just typical lawyer.

14 Is there some policy -- and maybe I missed
15 it -- that would allow the deputy chief to get some of
16 the other stipends that are part of salary for pension
17 purposes, like holiday pay, longevity? Is that part
18 of the different document that I maybe missed, or is
19 that Village policy?

20 A. **Well, which -- I mean, I guess it depends on
21 the benefit.**

22 Q. Let me show you. I'll clarify it.

1 DEPUTY CHIEF FARICELLI: There's a contract.
2 There's an agreement.

3 MR. REIMER: Of course we didn't get that either.

4 Just give me one second, Mr. Niemeyer. I
5 think we're almost done.

6 BY MR. REIMER:

7 Q. So I'm going to show you again, with my mask
8 on here so I don't infect anybody. I'm going to show
9 you Board Exhibit Number 1 again. I know this is a
10 document that you said you hadn't seen, but maybe it
11 will help you.

12 So if you look at what's been done for Deputy
13 Chief Faricelli, the base salary is there; we've asked
14 you about that?

15 A. Uh-huh. Yes.

16 Q. His longevity?

17 A. Correct.

18 Q. He gets a school incentive. I assume that's
19 educational incentive. He gets shooting pay. And
20 then he gets holiday pay. Which comes up with a total
21 base salary for pension purposes.

22 So I guess do you know -- I just heard Deputy

1 Chief say there's a contract.

2 So is there some other agreement between
3 exempt members -- so, in other words --

4 A. Yeah. I mean, I would not use the term
5 "contract." It's an offer letter that we send. Any
6 time we hire a new employee or promote an employee, we
7 basically send them an offer letter that we sign and
8 they sign. It outlines: Here's your salary, here's
9 your benefits, you know, you're an at-will employee.

10 DEPUTY CHIEF FARICELLI: I thought it was in there.
11 I think it's in there.

12 PRESIDENT VIOLETTO: I think it's in there.

13 MR. REIMER: Well, I saw an offer letter when you
14 were the acting chief.

15 DEPUTY CHIEF FARICELLI: Yes. But there's another
16 one in there for -- I thought I saw it.

17 THE WITNESS: And I think -- because I did ask
18 about today from the people who put it together, and
19 there's something -- I saw it, too, from 2014.

20 MR. REIMER: Right. I saw that.

21 THE WITNESS: I saw that briefly, too.

22 MR. REIMER: Did you have anymore questions of

1 Mr. Niemeyer?

2 DEPUTY CHIEF FARICELLI: Dave, no.

3 MR. REIMER: Gentlemen, does that prompt anymore,
4 or can we excuse Mr. Niemeyer?

5 PRESIDENT VIOLETTO: No, I don't have anymore
6 questions.

7 THE WITNESS: Seriously, if there's documents, I'll
8 be glad to do what we can to facilitate this because I
9 know you need to make some decisions.

10 MR. REIMER: If you'd like, I could -- I don't want
11 to circumvent your village attorney. If you want me to
12 communicate with him or her, I will. If not, I could
13 send you an e-mail telling you what I'm looking for.

14 THE WITNESS: Why don't you just do that. That's
15 just to expedite it.

16 MR. REIMER: Thank you. Appreciate your time and
17 coming out on a beautiful, sunny, warm night.

18 (Witness excused.)

19 MR. REIMER: So I guess the question is do you want
20 to ask -- here's my recommendation to you. I work for
21 you. It doesn't have to be what I suggest.

22 I think you need to see the missing

1 information. I can't explain to you why it wasn't in
2 the subpoenaed documents. I don't know. But if we're
3 hearing, through testimony under oath, that there's
4 something out there, I think you need to see it.

5 DEPUTY CHIEF FARICELLI: I do have a question,
6 because I, obviously, don't have it in front of me. So
7 I'm thinking that there's a document that says my top
8 pay should have been 148,911 and instead my base was
9 149 -- what's the difference here? Are we talking
10 about --

11 PRESIDENT VIOLETTO: \$116.18.

12 DEPUTY CHIEF FARICELLI: So I'm being paid \$116
13 more than what the ordinance should have been?

14 PRESIDENT VIOLETTO: Right.

15 TRUSTEE LINDOKKEN: There's also a number that
16 affects the vacation pay.

17 PRESIDENT VIOLETTO: I know. I already figured
18 that. The total difference is \$116.18.

19 DEPUTY CHIEF FARICELLI: So we're talking about --
20 and, once again, I want to say this from the very
21 beginning. I respect what you guys do, and I want you
22 guys to go over these things with a fine-tooth comb. I

1 want you to go over everyone's with a fine-tooth comb.

2 But you're talking about, in my instance, the
3 discrepancy of \$116, 50 percent of that, so we're
4 talking about \$52 that we're disputing here? So you're
5 talking about \$4 a month?

6 Is there a way I can say, "You guys can keep
7 the \$4 a month; I don't really care about that?"

8 You know, once again, if you're talking about
9 that small of an amount, heck, I don't even want to --
10 I spend more in gas coming back here.

11 MR. REIMER: Understood.

12 PRESIDENT VIOLETTO: I don't really have an answer
13 for that. That was discovered -- that, Charles, was
14 discovered when we got the packet. The original issue
15 was he gave the letters with no pay raises, and then a
16 pay raise came out after the letters.

17 DEPUTY CHIEF FARICELLI: And we've had this
18 conversation. I got -- and you said this is my turn to
19 speak, so I'll just take it.

20 MR. REIMER: It is.

21 DEPUTY CHIEF FARICELLI: I got lucky on my date.
22 Truth be told, I said I wasn't asking it. I got a step

1 instead of a merit raise, my last one, because my date
2 was April 30th. My April 30th date, rather than being
3 May 1st, allowed me to get things before they weren't
4 in -- got activated.

5 So in this case -- because Ray and I had this
6 conversation: "There's no way they're going to give me
7 the raise. There's no way they're going to give me the
8 raise."

9 I fell in before he issued the mandate that
10 you can't have -- no one is going to get their merit
11 raise. I know quite a few people who were in the same
12 boat because if you wanted to pull up -- there's a lot
13 of people who have an April 30th date. There's --
14 because of where it falls, there's probably 15, 20 of
15 us who have an April 30th date. So a lot of us got our
16 raises before they came out with this.

17 Once again, I have no problem with you guys
18 looking into this. But if this really is about \$116, I
19 am not going to fight with you guys about that.

20 TRUSTEE MONDT: No. It would be --

21 MR. REIMER: One at a time, because she's going to
22 make you all sound smart.

1 PRESIDENT VIOLETTO: So we just discovered that
2 when we got the exhibits.

3 DEPUTY CHIEF FARICELLI: I've looked at it, and,
4 like I said, excuse my math because I'm not a math
5 person either. I looked. 2018 I didn't have in my
6 packet. 2017, it was a 3.01 percent raise. 2019,
7 effective April 30th, effective April 30th in 2019, it
8 was a 2.99 percent raise, effective April 30th. And in
9 2020, effective April 30th, it was a 3.0 raise.

10 So all three of my raises are within
11 .1 percent of each other. I mean, there is no
12 difference here. This is my normal raise on my normal
13 day in the normal amount that I got every year.

14 And, once again, I appreciate -- you guys, I
15 want you guys going over everybody's pension with a
16 fine-tooth comb. These are the times that I don't -- I
17 know -- I'm glad he left because I know the Village --
18 certain conversations -- has done things that I kind of
19 worry about. So I want you guys doing this.

20 PRESIDENT VIOLETTO: You're being court reported,
21 just so you know.

22 DEPUTY CHIEF FARICELLI: I'm not employed anymore.

1 I don't care.

2 But, like I said, this raise, if you're just
3 asking me, I was surprised I got it. Ray and I had
4 this conversation back in March because we both didn't
5 think -- they were going to kick this down the road
6 long enough until I left. They knew when I was
7 leaving.

8 But I got my -- I made sure my evaluations
9 were in on time. I made sure the chief got my
10 evaluation in early. Because I knew it was -- I had a
11 chance of giving my due amount on the date that I was
12 supposed to have it. And it happened just like it
13 happened the four previous years: In the same time
14 frame, in the same amount.

15 Like I said, you could do the numbers
16 yourself. It is within .1 percent. It's just unreal
17 how close they are.

18 And he wouldn't have known that. That was my
19 first merit raise. Because of when my dates fell, 2019
20 was the step increase. They didn't have any choice on
21 my raise because I fell, once again, before the new pay
22 ordinance kicked in, and they started merit raises for

1 all of us. That started on May 1st of 2019. So I got
2 my step increase in 2019 because it happened to fall
3 before the date.

4 This is my first merit increase, and it ended
5 up, by some figuring of the numbers, exactly what I got
6 every other year.

7 MR. REIMER: So I don't want to throw a monkey
8 wrench in this, but remember, under the Department of
9 Insurance's Rules and Regulations on what is and what
10 isn't salary, merit is typically not considered part of
11 base salary for pension purposes. But that's why I
12 wanted to find out and see the documents that
13 Mr. Niemeyer was referring to, because even though they
14 call it merit, if it's true that if you get -- I'm
15 going to use the \$5,000 example rather than percentage.

16 If it's true that somebody got a \$5,000 pay
17 raise, say, last year and they're coming up for the
18 next raise, that \$5,000 stays in, it's not backed out.

19 Because, Ray, I'm sure you're aware there are
20 a lot of -- not many -- but there are some
21 municipalities that do have merit raises. Typically,
22 they are not pensionable. They're not considered

1 salary for pensions.

2 So I absolutely appreciate what you're
3 saying. If I were you, my recommendation -- I'll give
4 you options. You could cut a deal now and say -- walk
5 away, we'll put some finality to it.

6 But I think you started it, I think you need
7 to finish it. I'm not sitting here telling you I'm
8 trying to make work for you, for me. Let's get that
9 and come back. If it turns out, after you look at it,
10 we don't need to do this again, we can convene. We
11 might save you a trip.

12 DEPUTY CHIEF FARICELLI: I was going to say, the
13 next time I'm coming back was probably about
14 December 13th, 14th, right in there.

15 MR. REIMER: Everybody is going to be doing their
16 Christmas shopping.

17 PRESIDENT VIOLETTO: I'm not wanting to put it off
18 that far. I am extremely disappointed that they didn't
19 have that in the subpoenaed records that were
20 subpoenaed and they have all that nonsense in there
21 about TIFs and stuff. I mean, that really -- not only
22 does that waste our time, but it's wasted the

1 taxpayers' time and money with doing what they did with
2 that.

3 DEPUTY CHIEF FARICELLI: I bet they didn't even
4 notice that it went over by \$116. I bet they never
5 even fathomed that they went over their limit by that
6 amount.

7 MR. REIMER: But I think --

8 PRESIDENT VIOLETTO: But I do believe that since --
9 I mean, we had a hearing on this. He did issue the
10 letters that nobody was getting raises. He does give
11 an explanation. We need to see the documents. I do
12 believe that's our fiduciary responsibility.

13 MR. REIMER: That may clear everything up for you
14 if we could get it.

15 And, yes, you're right. They should have
16 included it. I looked at my subpoena. I thought the
17 subpoena was pretty clear: Any and all documents to
18 reflect how deputy chief got his salary increase.

19 DEPUTY CHIEF FARICELLI: I don't want to be talking
20 out of turn. It's not disputed that this is when I
21 normally get my raise. It's not disputed this is the
22 amount that I normally get. The only dispute is that,

1 when we had COVID happen, they said they weren't going
2 to give out raises.

3 Well, even by his own testimony, they gave
4 them out to all the people who -- people that got
5 promoted and had anniversaries of January, February,
6 March, and April. We all got our raises. He didn't
7 say -- once again, it's not disputed that I was due the
8 raise at this time in this amount.

9 It's that COVID happened and that they were
10 withholding raises. But he even said it didn't happen
11 until after this time period.

12 MR. REIMER: Can I -- I don't know what you want to
13 do. You could do Executive Session, if you wanted to,
14 and talk about it.

15 I wanted to clear up one thing, though,
16 gentlemen, if you'll allow me.

17 I don't know why I didn't have tabs on these.
18 So you already agreed to admission and had no objection
19 of Board Exhibit Number 1 through 9.

20 Do you have any objection to --

21 DEPUTY CHIEF FARICELLI: These are 1 through 10
22 now, right?

1 MR. REIMER: It's going to be 1 through 11.

2 DEPUTY CHIEF FARICELLI: Okay. I'm sorry to
3 interrupt.

4 MR. REIMER: Don't worry.

5 PRESIDENT VIOLETTO: 1 through 13?

6 MR. REIMER: Well, yes. I'm going to have to clean
7 my mess up.

8 So the record should reflect then that Board
9 Exhibit Number 1 through 11 have been admitted to the
10 evidence -- into the record without any further
11 authentication foundation.

12 And what was previously marked as Board
13 Exhibit Number 10 and 11 now become 12 and 13.

14 And you have no objections to the
15 renumbering?

16 DEPUTY CHIEF FARICELLI: Yes, I have no objection
17 to the renumbering.

18 MR. REIMER: Sorry. I got to do my lawyer thing.

19 DEPUTY CHIEF FARICELLI: You lost me.

20 MR. REIMER: So what's the Board's pleasure? Do
21 you want to just call it a night, commence and continue
22 this? I'll write an e-mail to Mr. Niemeyer tomorrow

1 sometime and then try to get everything?

2 PRESIDENT VIOLETTO: Tim, I skimmed through that.
3 There's a lot of TIF information in there. I mean, if
4 you want to look through it...

5 TRUSTEE EHLERS: No. I just seen some documents.

6 MR. REIMER: Here's what I can tell you. I've been
7 through that. Just for the record, the Village
8 submitted maybe a thousand pages of documents in
9 response to this subpoena. Out of that, I created
10 Board 1 through 11. I went through it again today
11 because there was a thought that maybe I missed
12 something or the Village didn't turn it over.

13 I can tell you there's absolutely nothing
14 that remotely resembles what Mr. Niemeyer testified to.

15 TRUSTEE EHLERS: Okay. I was just curious.

16 MR. REIMER: If it is, it's in invisible ink. So
17 you are more than welcome to look at this.

18 Again, I think here's yours options: You can
19 call it a night tonight. I'll get the documents. I'll
20 get them back to you. I'll absolutely send you a copy
21 of them, Deputy Chief, so that you know what they are.
22 I'll mark them as the right exhibits. It will be 14,

1 15, whatever. Send them to the board. And then you
2 can decide what you want to do;

3 Or, you can go into Executive Session
4 tonight, if you think that would be beneficial. We
5 have had an evidentiary hearing.

6 But we actually haven't let -- I know you've
7 had an opportunity to speak. I think you ought to, out
8 of fairness so you're making a good record, get all
9 your documents in, and then we'll give the Deputy Chief
10 an opportunity to make his argument to you as to why he
11 should get what is there. Maybe it comes down to that
12 \$116.

13 PRESIDENT VIOLETTO: I say if Niemeyer said that he
14 could get that document by next week, I don't
15 necessarily have a reason to believe that he wouldn't
16 be truthful.

17 MR. REIMER: Right.

18 PRESIDENT VIOLETTO: So, I mean, I would try to --
19 if I could possibly continue this until Monday,
20 November 23rd, if that was possible.

21 MR. REIMER: I can do that if you wanted to.

22 I don't know what's going on now with

1 statewide COVID. It seems to me we're slipping back
2 and there may be a stay-at-home order. That's just
3 what I'm sensing. Like it or not, would we want to do
4 that via Zoom?

5 PRESIDENT VIOLETTO: We could do that, too.

6 MR. REIMER: Because we've got a Zoom platform if
7 we had to.

8 How does that work for you gentlemen? Would
9 that day work, Monday, November -- it's Thanksgiving
10 week.

11 PRESIDENT VIOLETTO: Thanksgiving week. It's the
12 Monday.

13 MR. REIMER: Monday, November 23rd. What time
14 would you want to do it? Want to do it the same time,
15 6:00?

16 PRESIDENT VIOLETTO: I don't have a problem with
17 that.

18 MR. REIMER: To save you a trip, would you be able
19 to do Zoom?

20 Listen, if I could do it, you can do it.

21 DEPUTY CHIEF FARICELLI: I can say yes, but I can't
22 really do that stuff very well. So I'm going to say

1 there's a 90 percent chance I won't be able to get on
2 there.

3 PRESIDENT VIOLETTI: All you have to do is download
4 the app and get an invite, and you just click on it.

5 DEPUTY CHIEF FARICELLI: I believe you.

6 MR. REIMER: I'll tell you what. My assistant --
7 thank God for assistants. That's who helps me. She
8 would be happy to walk you through the whole thing and
9 tell you how to do it. All you got to do is download
10 the Zoom. You're going to get a meeting ID -- if I
11 could do it --

12 DEPUTY CHIEF FARICELLI: I'm going to take your
13 word for it.

14 MR. REIMER: Here's what I would tell you --

15 DEPUTY CHIEF FARICELLI: Is this a meeting that I
16 need to be a part of? Is this a voting meeting?

17 MR. REIMER: I don't know what the documents are
18 going to be. So I would hate to tell you don't show up
19 and have there be something in there that doesn't -- is
20 a problem.

21 DEPUTY CHIEF FARICELLI: I will do my best. But if
22 you send me some kind of request for something, you

1 might be getting a call saying, "I can't do this; tell
2 me what I'm supposed to be doing."

3 MR. REIMER: Do you want me to just set it up for
4 Zoom?

5 PRESIDENT VIOLETTO: Sure.

6 DEPUTY CHIEF FARICELLI: I'll give you my e-mail.

7 PRESIDENT VIOLETTO: I think we're all going to be
8 here, though. You could set it up for Zoom, but I'm
9 pretty sure we're all going to be here.

10 MR. REIMER: Okay. Well, whatever you want to do.
11 We could try for an in-person meeting. The problem is
12 the guest of honor isn't going to be here. And,
13 honestly, I don't know -- I'm not getting a good
14 feeling about the governor saying, hey, we may have to
15 do a stay-at-home order. I just think that's coming.
16 I really do.

17 PRESIDENT VIOLETTO: I believe you, too. But I
18 think we're still going to be here, even if he says it.

19 MR. REIMER: Well, we'll figure it out. We're
20 going to do a Zoom.

21 Lets do a motion to commence and continue
22 this matter for a Zoom meeting Monday, November 23rd,

1 at 6:00 p.m. That's the motion. I need a motion and a
2 second.

3 PRESIDENT VIOLETTO: I'll motion to commence the
4 meeting and adjourn --

5 MR. REIMER: Continue.

6 PRESIDENT VIOLETTO: I'll motion to commence --

7 MR. REIMER: And continue.

8 PRESIDENT VIOLETTO: -- and continue until
9 November 23rd at 6:00 p.m., via Zoom meeting.

10 Do I have a second?

11 TRUSTEE MONDT: Second.

12 PRESIDENT VIOLETTO: Roll call vote.

13 Carl?

14 TRUSTEE LINDOKKEN: Yes.

15 PRESIDENT VIOLETTO: Fred?

16 TRUSTEE MONDT: Yes.

17 PRESIDENT VIOLETTO: Myself, yes.

18 Tim?

19 TRUSTEE EHLERS: Yes.

20 PRESIDENT VIOLETTO: Motion carries.

21 MR. REIMER: So you need to do public comment. Do
22 you want to make any public comment?

1 DEPUTY CHIEF FARICELLI: I think they all heard
2 what I have to say.

3 MR. REIMER: Not related to your case, if you
4 wanted to.

5 DEPUTY CHIEF FARICELLI: Oh, no, no. Just thanks.
6 I appreciate what you guys are doing. This is not
7 easy, I know.

8 MR. REIMER: So then you would do, if the Board
9 pleases, unless you had any other business -- I don't
10 think on your agenda you did -- you would do a motion
11 to adjourn the meeting at 6:55.

12 PRESIDENT VIOLETTO: Do I have a motion to adjourn
13 the meeting at 6:55?

14 MR. REIMER: So you could vote on that if you'd
15 like?

16 TRUSTEE LINDOKKEN: I'll move to adjourn.

17 TRUSTEE MONDT: Second.

18 TRUSTEE EHLERS: Second.

19 PRESIDENT VIOLETTO: All in favor "aye."

20 BOARD MEMBERS: (In unison) Aye.

21 PRESIDENT VIOLETTO: Any opposed?

22 Motion carries.

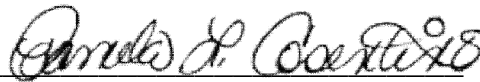
1 MR. REIMER: Thank you. Go ahead and write it.

2 (Whereupon, at 6:55 p.m., the
3 above-entitled cause was
4 adjourned to November 23, 2020
5 at 6:00 p.m.)
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1 STATE OF ILLINOIS)
) SS:
2 COUNTY OF C O O K)
3

4 I, PAMELA L. COSENTINO, being first duly
5 sworn on oath says that she is a court reporter doing
6 business in the City of Chicago; that she reported in
7 shorthand the proceedings given at the taking of said
8 hearing and that the foregoing is a true and correct
9 transcript of her shorthand notes so taken as
10 aforesaid and contains all the proceedings given at
11 said hearing.

12 IN TESTIMONY WHEREOF: I have hereunto set my
13 verified digital signature this 19th day of November,
14 2020.

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PAMELA L. COSENTINO, CSR



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