

BEFORE THE TINLEY PARK
POLICE PENSION FUND BOARD OF TRUSTEES

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

CONTINUED BOARD HEARING

December 10, 2020

6:00 P.M.

REPORT OF PROCEEDINGS HAD before the TINLEY PARK
POLICE PENSION FUND BOARD OF TRUSTEES, taken via
video conference and teleconference in accordance
with the modified provisions of the Open Meetings
Act as set forth in Governor Pritzker's Executive
Order 2020-07 (COVID-19 Executive Order No. 5) as
extended by Executive Order 2020-33 (COVID-19
Executive Order No. 31), before JANET L. HAYDEN,
C.S.R., License #084-004484, a Notary Public
qualified and commissioned for the State of

1 Illinois.

2 PENSION BOARD MEMBERS PRESENT:

3 MR. RAYMOND VIOLETTO, President

4 MR. CARL LINDOKKEN, Trustee

5 MR. TIMOTHY EHLERS, Trustee

6 MR. FREDERICK MONDT, Trustee

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ALSO PRESENT:

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Mr. Richard Reimer, Board Attorney

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Deputy Chief Charles Faricelli

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I N D E X

WITNESS: DAVID NIEMEYER

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Examination By: Mr. Reimer 71

E X H I B I T S

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Hearing Exhibit No. 14 68

1 PRESIDENT VIOLETTA: So, I guess we'll
2 call the meeting to order at 6:05. Do a roll call
3 vote. Carl?

4 TRUSTEE LINDOKKEN: Here.

5 PRESIDENT VIOLETTA: Fred?

6 TRUSTEE MONDT: Here.

7 PRESIDENT VIOLETTA: Myself, Ray here.

8 And Tim?

9 TRUSTEE EHLERS: Here.

10 PRESIDENT VIOLETTA: Board members present
11 for the board.

12 MR. REIMER: All right. The record should
13 reflect this is a Zoom hearing being conducted
14 pursuant to the governor's disaster declaration,
15 the amended Open Meetings provisions. This matter
16 is being audio and video recorded as required by
17 law. This is a continuation of the hearing in the
18 matter of the disability of Deputy Chief Charles
19 -- disability retirement claim of Deputy Chief
20 Charles Faricelli, who I believe is present.
21 Correct?

22 DEPUTY CHIEF FARICELLI: Yes.

1 MR. REIMER: Okay. Good. Thank you. It
2 also should be noted that the president of the
3 Police Pension Fund has made a finding that an
4 in-person meeting was not practical or prudent.
5 An in-person attendance by one or more of the
6 pension board trustees at the police department is
7 not feasible due to Corona virus and the
8 governor's disaster proclamation.

9 So, we also have a witness here. The
10 board issued a subpoena, and Mr. Niemeyer is once
11 again kind enough to appear. It should be noted
12 this matter was commenced to continue from
13 November 12th of 2020. During that hearing I was
14 appointed the hearing officer. We admitted Board
15 Exhibit Nos. 1 through 13.

16 After the last meeting, Mr. Niemeyer
17 provided my office with what I marked as Board
18 Exhibit No. 14, and that should have been
19 distributed to all of the trustees and Deputy
20 Chief Faricelli.

21

22

1 (Whereupon, the document was
2 marked as Hearing Exhibit No. 14
3 for identification.)

4 MR. REIMER: Can I confirm that my staff
5 did that? If you recall, I was out of the office
6 due to Corona virus exposure.

7 Did the four pension board trustees get
8 Board Exhibit 14?

9 ALL TRUSTEES: Yes.

10 MR. REIMER: Okay. Deputy Chief
11 Faricelli, if you can hear me, did you get Board
12 15?

13 THE COURT REPORTER: I can't hear that.

14 MR. REIMER: What?

15 PRESIDENT VIOLETTA: He doesn't know.

16 MR. REIMER: Okay.

17 PRESIDENT VIOLETTA: He didn't see what it
18 is.

19 MR. REIMER: All right. It should -- it's
20 actually a couple of documents, but it should say
21 Ordinance No. 218-0-46.

22 PRESIDENT VIOLETTA: That ordinance is

1 also in our original --

2 MR. REIMER: And then there's some amended
3 appendices. And then there is Attachment A, which
4 is: Rules and regulations governing the use of
5 performance evaluation documents 2020.

6 PRESIDENT VIOLETTO: Yes.

7 MR. REIMER: Deputy Chief, do you have
8 that?

9 DEPUTY CHIEF FARICELLI: -- email --

10 THE COURT REPORTER: I can't hear that.

11 MR. REIMER: We're having a -- Yeah, we
12 can't hear --

13 PRESIDENT VIOLETTO: He says no. He says
14 he doesn't have it. He's looking in his e-mails.

15 MR. REIMER: It should been sent about the
16 same day that it was sent to you. Maybe --

17 UNIDENTIFIED TRUSTEE: He's checking his
18 e-mail right now. So, we can -- if you can just
19 wait a minute.

20 MR. REIMER: Okay. Sure.

21 THE COURT REPORTER: And I can't tell
22 who's speaking. If they would say their name?

1 MR. REIMER: Sure.

2 THE COURT REPORTER: Right now it's up for
3 grabs.

4 MR. REIMER: You bet. Thank you for
5 reminding me. The Deputy Chief may have to move
6 closer so we can hear him.

7 PRESIDENT VIOLETTA: Yeah. As soon as he
8 checks his e-mail, we'll move him up.

9 MR. REIMER: Got it. If not, I could
10 probably e-mail it to him, too, if need be.

11 DEPUTY CHIEF FARICELLI: I've got them. I
12 talking as loud as I can, but I'm talking through
13 a mask.

14 MR. REIMER: Understood.

15 PRESIDENT VIOLETTA: He confirmed it.
16 Deputy Chief Faricelli confirmed that he has all
17 three of the Exhibit 14s.

18 MR. REIMER: Okay. That is -- that is
19 Trustee Violetto that just spoke. You got to make
20 sure that you identify yourself when you speak so
21 our court reporter can make us all sound smart.

22 PRESIDENT VIOLETTA: Thank you, Rick. Ray

1 Violetto.

2 MR. REIMER: Yes, sir. Thank you. So, is
3 there any public comment? Okay. I don't hear any
4 public comment, so I think we want to just get
5 right to Mr. Niemeyer.

6 Sir, would you raise your right hand, and
7 this young lady will swear you in?

8 (The oath was thereupon duly
9 administered to the witness by the
10 Notary.)

11 MR. REIMER: Thank you. Good evening,
12 sir. Would you once again state your name for the
13 court reporter and spell that, please?

14 THE WITNESS: David Niemeyer,
15 N-i-e-m-e-y-e-r.

16 DAVID NIEMEYER,
17 having been first duly sworn, was examined and
18 testified as follows:

19
20 EXAMINATION

21 By: Mr. Reimer

22 Q And obviously you're here pursuant to a

1 subpoena. Correct?

2 **A Correct.**

3 Q I won't go through the foundational
4 material we did at the last meeting -- or hearing.
5 So just -- you provided us with some documents
6 that have been marked as Exhibit No. 14. And a
7 couple of questions for clarification that I have,
8 and I'll let the board and Deputy Chief Faricelli
9 ask any questions.

10 So, do you know whether or not there was a
11 village board meeting on October 7th of 2018?

12 **A Yes, there was. 2018 did you say? Or**
13 **what -- 2018?**

14 Q Yes, sir. 2018.

15 **A Yes, there was.**

16 Q And the reason I ask is, it looks like, if
17 you look at Appendix C, the non-management
18 positions effective October 7th, and then there is
19 Appendix -- the Appendix D as in David that's
20 management and professional positions effective
21 October 7, 2018.

22 Do you have that, sir?

1 **A I'm getting to it, yeah. I've got -- yes,**
2 **I've got C and D. Yes.**

3 Q So, if you look at Exhibit D under the
4 classification for police -- deputy police chief,
5 it looks like the most recent salary range for
6 that position according to this appendix is:
7 Minimum 114,187 to a maximum of 148,988. Correct?

8 **A That is correct.**

9 Q Now, is that the most recent appendix or
10 pay schedule in effect?

11 **A No, no. The most recent one was**
12 **April 16th, 2019.**

13 Q Let me go back and try to get that one.
14 So, what I'm trying to find out is at what -- why
15 did you send this one?

16 **A Which one?**

17 Q Why did you send Exhibit 14?

18 **A Is Exhibit 14 the ordinances, because I --**

19 Q Well, Exhibit 14 was actually the
20 ordinance you sent us, which is 2018-O-046.

21 **A Yes.**

22 Q And then attached to that is the various

1 appendices.

2 **A** Yep, yep. So, basically what I was trying
3 to show you with the two ordinances is that -- so,
4 in October there was an ordinance passed that set
5 the chief's maximum, Deputy Chief's maximum at
6 148,988. Subsequent to that in April, there was
7 an updated ordinance passed that should have
8 increased that range, but it did not.

9 Q Is that the 2 percent you referred to in
10 the e-mail?

11 **A** Two and a half percent.

12 Q Yes.

13 THE COURT REPORTER: There's some feedback
14 going on.

15 THE WITNESS: There's a lot of feedback,
16 yeah.

17 BY MR. REIMER:

18 Q I'm sorry. I don't know if you heard my
19 question with the feedback.

20 So, your e-mail to my office in
21 November 20 of '20?

22 **A** Yeah.

1 Q You say, "October 7th an ordinance was
2 passed that put the Deputy Chief position at top
3 range of 148,988. And on April 16th, 2019,
4 another ordinance was passed for the 2019-20
5 fiscal year that included a 2 and a half percent
6 increase in top range for all other positions, but
7 by mistake the Deputy Chief position was not
8 increased."

9 **A Yes.**

10 Q So, the most recent ordinance that we have
11 then -- give me a minute, please -- would be
12 Board Exhibit No. 6. You probably don't have
13 that. Bear with me. Let me just try to get it.
14 So, it looks like the management professional
15 position effective May 1st of 2019, according to
16 that, the police chief should have gone to
17 148,988. So, you're saying that that is
18 erroneous?

19 **A Right.**

20 Q Is there any documentation that would
21 establish that? Was there any kind of memoranda?
22 Communications? Was there any action taken at a

1 board meeting to address that?

2 **A** No. No. And again, as we -- really until
3 I think, you know, obviously my testimony, and I
4 went back and I talked with HR, they basically
5 caught that. So, what I tell you what we're going
6 to do -- if this helps or hurts, I don't know --
7 that there was actually a fewer errors in this
8 document. This was the only error that was
9 related to someone not -- one position not getting
10 a range increase that they should have, but we are
11 going to be going back to the Village board with a
12 corrective schedule after the first of the year.

13 **Q** Okay. So, if you do that then, and the
14 board takes action, would you anticipate that the
15 Deputy Chief would get a retroactive increase
16 including the 2.5 percent?

17 **A** Well, so, just to be clear, so this is a
18 document that sets the pay range. This isn't a
19 document that sets -- I mean, he essentially
20 received that increase. So, that action, I mean,
21 has already been taken. So, this is really just
22 to match the ranges with where the market should

1 be.

2 And part of the reason we're doing it is
3 there's one -- there were a couple errors in a
4 couple other positions unrelated to this. And
5 we're also going to be going out for hiring the
6 deputy chief position. So, we want to make sure
7 that we get it right in terms of the market. So
8 but, in answer to your question, the pay increase
9 has already happened. So this action is not going
10 to change any of that.

11 Q So, as I understand your testimony here
12 is, the pay increase happened; he got the
13 2.5 percent even though that wasn't reflected in
14 the attachment for salary increases -- the most
15 recent salary increases?

16 A It was of the range in the ordinance.
17 Correct.

18 Q All right. And then it's the Village's
19 intent then to go back and amend the ordinance?

20 A Correct.

21 Q Or at least the --

22 A Amend the pay plan. I mean amend the

1 plan. I don't know that it will be an amendment
2 of the ordinance. It will be an amendment of the
3 actual plan.

4 Q That makes sense. Okay. So then I have
5 another couple of quick questions here for you.

6 A Sure.

7 Q So, I know, if you recall, I was asking
8 you about how your -- if there was any documents
9 that would shed any light on the merits of the pay
10 plan, the evaluation tool, and you were kind
11 enough to send me a document that's the last
12 couple of pages of Board Exhibit No. 14. It's
13 three pages. It's call Attachment A. It says:
14 Rules and regulations governing the use of
15 performance evaluation documents 2020.

16 So, I guess the question is -- the Deputy
17 Chief would have gotten merit pay. Correct?

18 A Correct.

19 Q So, for the last pay raise, do you know
20 how much dollar-wise merit pay he received for --
21 I guess it would be May 1 of 2020?

22 A I mean, I don't have -- no. I don't have

1 the exact dollar amount in front of me. I can
2 certainly get that, but I do not have it.

3 Q All right. I'm sure that's something the
4 board is going to want to see. Then the next
5 question would be: What merit raise -- if you
6 could give us a dollar amount, a dollar amount of
7 the pay increases May 1 of 2019 for the previous
8 year?

9 I think what the board is trying to figure
10 out here is: Is merit pay become part of salary?
11 Because one of the difficulties is that under the
12 Illinois Department of Insurance's -- well, let's
13 just call it the Illinois Administrative Code. In
14 order to be -- you might be familiar with this.
15 In order to be considered salary, merit pay is not
16 considered.

17 The rule is 4402.40 non-salary
18 compensation. And there's Subsection F, which is
19 merit pay: Compensation which is neither fixed in
20 the amount or determined by redoing bargaining
21 agreements or pay plan, nor added into the salary
22 for determining future increases?

1 So, that's what we're trying to nail down.
2 If you could help us out? Does that make sense?

3 **A It makes sense. I have not heard that**
4 **before, but, you know, I'm not an attorney.**
5 **Obviously you -- (inaudible) interpret that. But**
6 **yeah, it's --**

7 Q Understand. Yeah. That's actually a
8 whole part of what's called The Joint Committee on
9 Administrative Rules Administrative Code. I could
10 -- your staff should really have that if they're
11 doing any calculations, because that will tell you
12 what is considered salary and what isn't salary.

13 **A I think -- you know, if I can just comment**
14 **if I'm allowed to?**

15 Q Of course.

16 **A I mean, I think obviously whatever**
17 **decision you arrive at, I mean this is obviously**
18 **important because all of our -- in the last two**
19 **years, all of our upper management -- obviously**
20 **this only affects police -- are on this merit**
21 **system. So, the deputy chief, commander, so -- I**
22 **mean, this is going to affect all of that.**

1 Q So, then I think last time -- and I don't
2 want to go into what you've already testified to,
3 but if I recall your testimony at the previous
4 hearing, you believe that once somebody got merit
5 pay, it was embedded in salary. And then the very
6 next year you would add whatever pay increase on
7 top of that.

8 Is that -- am I getting that correctly?

9 **A That is correct. It is not a bonus per se**
10 **where it's a one-time payment. It is -- and**
11 **obviously the difference is in the past, people**
12 **would get fixed steps, and they're no longer**
13 **fixed.**

14 Q So, again, I'm not trying to get my nose
15 into the board's business. We just want to make
16 sure the pension board is doing what's required
17 under the rules of the Illinois Pension Code. So,
18 please don't take any offense by that.

19 **A Okay.**

20 Q So, if --so, we wouldn't really be able to
21 tell with what we have whether or not the last
22 couple of years, the merit -- whatever merit pay

1 Deputy Chief got was built in the salary for the
2 next pay raise?

3 **A** I'm not sure in order to answer your
4 question. I mean, basically, you know, a couple
5 years ago, I mean we started moving to having all
6 merit pay increases. So, I mean we have never
7 internally considered that -- we have always
8 considered that part of salary. I can't, you
9 know, speak to how the pension board --
10 (inaudible). So, we always looked at it as part
11 of an addition to their salary.

12 **Q** Okay.

13 **A** In the past, they received increases
14 through steps. And now it had to be earned for
15 merit. That's really --

16 **Q** Okay. All right. So, again, I'm not
17 trying to put words in your mouth. I'm just
18 trying to understand how this works, how the
19 Village approaches this. So, I think what I hear
20 you saying is: That's the practice of the
21 Village. Right? So, if I got a percent pay
22 raise, and I was one of your management employees,

1 if I got, let's say, a 2 and a half percent merit
2 raise in 2019, that would be included -- whatever
3 happened in 2020, if there's pay increases, you
4 would start with my salary that included the 2 and
5 a half percent. So, it would be built on top of
6 that?

7 A Well, you're talking about the -- yes.

8 Well, can you repeat the question?

9 Q Probably not. Let me try though.

10 A The range -- any increase in the range
11 does not affect the salary. So, here's the way it
12 was in the past. You know, they would be within a
13 range, and within the range -- and just as, you
14 know, the police department has, there's a number
15 of steps they would basically increase to based on
16 a successful evaluation, and there would also be
17 an annual across-the-board increase. Okay?

18 Both of those, the step increases and the
19 across-the-board increases, those have both been
20 eliminated for management employees. There's only
21 one increase. It's based on the merit increase.
22 But it's based off their base pay. So, you're at

1 -- pick a number -- 100,000. You know, you get a
2 3 percent increase that goes to 103,000. The next
3 year the base is 103,000, and then a merit
4 increase is off of that.

5 Q Okay. That's kind of what I was trying to
6 get at.

7 A Okay.

8 Q I didn't ask it as diplomatically or as
9 precisely as I should have. So then, looking at
10 -- going back to Attachment A, I didn't see that
11 in there. So, that's your Rules and Regulations
12 Governing the Use of Performance Evaluation
13 documents.

14 Did I just miss it?

15 A No. This was really -- this was just more
16 of a guidance for managers in terms of how to
17 actually do the evaluations and the criteria. So,
18 it's -- again, this was a new program we
19 established. So, if you look through it, it gives
20 some guidance in terms of -- and it's really not
21 just for the management people, but there is
22 employees below that that also have -- are getting

1 a combination of steps and merit. So, it was
2 really a document and a guide for anybody who has
3 to do a review that does include merit.

4 THE COURT REPORTER: A review that what?

5 THE WITNESS: That includes merit.

6 BY MR. REIMER:

7 Q So, I'm looking at performance evaluation,
8 and that's -- for the members of the board -- and
9 I apologize, because I'm sure, Mr. Niemeyer, you
10 don't have copies of these exhibits. I apologize.
11 I probably should have had them scanned in and
12 sent to you.

13 But we have an exhibit that's been
14 admitted, and it's the performance evaluation for
15 the deputy chief dated May 30th of 2020. So, we
16 see that. Nowhere in that document is there any
17 information concerning how much the merit raise
18 will be; is that true?

19 A Well, without seeing the document --

20 Q Okay.

21 A There's four at the end?

22 Q There's four. It looks like it might be

1 80.

2 **A** So again, without seeing it. So,
3 basically what you have is the actual evaluation
4 form. And that form is translated to a pay
5 increase form, which I don't know if you have.
6 But there should be a form that says this form was
7 this; the increase is whatever percent it was; and
8 would have the dollar amount in there. So that's
9 really how the (inaudible).

10 **Q** Okay. So, I get that.

11 **A** You can't get the actual -- what the
12 salary is off the evaluation form.

13 **Q** But as I understand it, whether you get --
14 whether an employee that's in the merit system
15 gets a merit pay raise depends on the score off
16 the evaluation tool.

17 THE COURT REPORTER: Depends on what?

18 BY MR. REIMER:

19 **Q** Depends on the score on the evaluation
20 tool.

21 **A** That is correct.

22 **Q** I apologize. So I have then -- you

1 referred to there's some kind of -- I think you're
2 referring to a personnel payroll change form. Is
3 that what would happen --

4 **A Yes.**

5 Q -- to trigger the increase?

6 **A Yes.**

7 Q Is that right? So, we have one that's on
8 Bates Stamp No. 80. Again, I apologize that you
9 don't have it. And it looks like the effective
10 date for Deputy Chief Faricelli was on April 30,
11 2020. He went to 149,099.78. Correct? From
12 144,644.72. And that -- this form is dated -- and
13 I apologize again you don't have it -- dated
14 June 1st of 2020.

15 Does that sound right to you?

16 **A Well, I think you might have shared that**
17 **with me last time. Is that the one --**

18 Q Yeah.

19 **A I think it might be signed by Assistant**
20 **Village Manager, if I remember right, Pat Carr, at**
21 **the bottom.**

22 Q Yeah. And then if you could --

1 THE COURT REPORTER: What was his name?

2 THE WITNESS: Carr.

3 THE COURT REPORTER: Ed?

4 THE WITNESS: Pat Carr.

5 THE COURT REPORTER: Pat Carr. Thank you.

6 BY MR. REIMER:

7 Q Is that C-A-R-R --

8 **A Yes.**

9 Q Or R?

10 **A Two R's.**

11 Q Two R's. Okay. So, I don't do math. I
12 went to law school, because they promised me there
13 wouldn't be any. They lied. So, the difference
14 between 144,644.72, so the amount that he was
15 making prior to the increase on April 30,
16 149,099.78, is that a specific percentage?

17 **A Well, again without looking at the**
18 **document, but I would assume that percentage**
19 **equals -- is tied into what his score was on the**
20 **evaluation.**

21 Q So, is there any document that I could
22 look at, an evaluation, and then I could determine

1 what the salary increase percentage-wise would be?

2 **A** Well, it's not on that document in front
3 of you. It doesn't say the percent. It just says
4 the number, the 144 and the 149.

5 **Q** Okay. Wait. Here we go. Sorry. I had a
6 Post-It note over it. So, merit award: 3.08
7 percent.

8 **A** There you go.

9 **Q** Now, is there any guidelines, any document
10 the board can see that would determine how the
11 evaluation score is translated into the percentage
12 amount? Or is it just whatever somebody wants to
13 do?

14 **A** That's a great question. So, the answer
15 is: It can -- it will -- can vary from
16 year-to-year. So, the intention behind is: The
17 board will say, okay, depending on our budget this
18 year we can afford a pool from zero to 4 percent.
19 Okay? Which is what it was that year. This year
20 it's zero percent. Next year it might be zero to
21 3 percent. It just depends on, you know, what the
22 board feels comfortable offering.

1 So I believe -- I would have to check, but
2 I think there is something from last year that
3 they used basically as a guide to say, if the
4 score here, here is how you calculate the
5 evaluation. I don't have that in front of me. I
6 think if I had that sheet with his score and
7 evaluation -- and the pay form, I could probably
8 tell you, but I --

9 Q Okay. All right. So, I guess -- because
10 I don't want to waste your time, but I just want
11 to make sure I get it right. So, I just want to
12 make sure that there's some document that has --
13 that shows the methodology that determines what
14 the percentage of any merit increase will be as
15 opposed to -- not that it's wrong, but I've seen
16 it that way where it's just kind of an arbitrary
17 number that's up to the discretion of someone.
18 And I think, if I'm understanding you correctly,
19 there is some kind of a guide.

20 A Can you -- I might -- what is -- well, is
21 there anything on the evaluation form that has the
22 average score, because I might be able to tell you

1 if you have that?

2 Q Give me a minute to look at it.

3 A Look at the bottom of the last page.

4 There should be something that says the average
5 score.

6 Q The average score is 3.08.

7 A There you go. So, this year the
8 calculation -- that year the calculation -- I
9 think you did -- the calculation was actually
10 fairly simple. The average score was -- that
11 works this year, because of, you know, that may
12 not be the case every year, but because it's a
13 zero to 4 range, and it matches -- and the scores
14 are from zero to 4, that's what we did for that
15 year.

16 Q So, it sounds like what you're saying is
17 that coincides with the percentage of pay
18 increase. Right?

19 A Right.

20 Q So, the score based upon the average; is
21 that right?

22 A That is correct. And yeah, for this

1 particular year, because it was zero to 4. So, I
2 mean, if Mr. Faricelli had gotten a 2.78, he would
3 have got -- average score, he would have got a
4 2.78 increase. Or 3.5 and so on.

5 Q So, no other -- let me look at this again.
6 I'm referring to Board Exhibit 14. Again I'm
7 referring to the Attachment A, which is your Rules
8 and Regulations Governing the Use of Performance
9 Evaluation Documents 2020. If you have that, on
10 page 2 -- do you have that? I'm sorry, sir.

11 A Do I have what?

12 Q Attachment A.

13 A I have the -- yes, I do.

14 Q All right. There's a caption up at the
15 top that says: Merit Step Movement.

16 A Uh-huh.

17 Q So, "supervisor employees not on merit
18 reviews," is he considered supervisor or
19 managerial, or a department head?

20 A He's considered managerial. So, he would
21 not fall in either one of those categories. He
22 would fall in the category -- if you look down a

1 little bit, the last paragraph, Supervisory on
2 Merit Review. That's the category he would fall
3 under.

4 Q And then this new bonus program that was
5 apparently in development when this was modified
6 June 12, 2019, has there been a document that's
7 updated any application of this new bonus program,
8 or is that already in effect?

9 A It is -- there has not been a document,
10 and it is not in effect. Honestly, as much
11 because with the financial situation of the
12 Village this year, we did not include any money in
13 the budget.

14 Q Okay. So, that program has not been
15 adopted; is that true?

16 A That is true.

17 Q So we're definitely talking about a merit
18 raise here. Correct?

19 A Yes.

20 Q Not a bonus?

21 A It is not a bonus.

22 MR. REIMER: All right. That's all have.

1 Members of the board, do you have any questions of
2 Mr. Niemeyer? That looks like Ray. I don't know
3 if you can hear me, Fred.

4 PRESIDENT VIOLETTA: Yes. We were on
5 mute. Ray Violetto. We were asking about that
6 October 17th, 2018, Village board meeting. On the
7 Village's web page, it does not show that there
8 was a Village board meeting on that day.

9 MR. NIEMEYER: October 7th, not the --

10 PRESIDENT VIOLETTA: Okay. I'm sorry.
11 I'm sorry. I correct myself. October 7, 2018, it
12 does not show that there was a meeting on that
13 date.

14 MR. REIMER: If you wanted them, we could
15 try to get the minutes. I mean, it's a public
16 document.

17 THE WITNESS: Yeah, but we'll -- yeah,
18 because it's -- I don't know.

19 MR. REIMER: Any other questions?

20 PRESIDENT VIOLETTA: Carl? Tim? Fred?
21 Okay. Ray Violetto again. I polled the members
22 of the board, and no one has any questions.

1 MR. REIMER: Okay. Now, what's the
2 board's pleasure? In terms of documents, one
3 thing I know you want to see -- and I know you all
4 want to wrap this up. And I will give the Deputy
5 Chief an opportunity if he wants to ask any
6 questions of Mr. Niemeyer. He should have that
7 opportunity to do so. But before we do that, is
8 there any other documents that are needed?

9 PRESIDENT VIOLETTA: I ask who you ask
10 that of?

11 MR. REIMER: Yes, sir. From the board.
12 Is there anything the board wants to see? And I
13 guess here's why I'm asking the question: So, we
14 have a 2018 performance evaluation tool, and the
15 actual one that was for Deputy Chief Faricelli,
16 and that appears to be -- okay, I guess that's why
17 I'm confused, because the only document -- we only
18 have -- that's Board Exhibit No. 7. Oh, it ends
19 April 30th, 2020.

20 BY MR. REIMER:

21 Q So, Mr. Niemeyer, was this the only time
22 the performance evaluation tool for merit, as you

1 testified to, was used for Deputy Chief Faricelli?

2 **A I'm going to use the phrase "to the best**
3 **of my recollection," yes. I think this is the**
4 **first time and the only time.**

5 Q Okay. So, I guess the --

6 **A The program is a couple years old, so I**
7 **don't think when -- the year before that it was in**
8 **effect at that point.**

9 Q When did the -- when did the merit pay, as
10 you've testified to, for supervisory -- or I'm
11 sorry, for non-bargaining unit personnel, when did
12 that merit pay program go into effect?

13 **A Well, I -- I was afraid you were going to**
14 **ask that.**

15 Q I'm sorry.

16 **A I don't have -- I'd be glad to get you the**
17 **exact day, exact timeframe. I don't have that in**
18 **front of me.**

19 Q All right. Fair enough. And then let me
20 ask you one other question then.

21 Was there some kind of document that was
22 done by resolution or done by ordinance, or how is

1 that -- what action did the Village Board take, or
2 was that just something you had the authority to
3 do as the village manager?

4 **A No. The board actually approved -- and**
5 **I'd have to get the document. There was actually**
6 **approval of a document. We actually hired an**
7 **outside consultant that helped us develop. And**
8 **there was -- just so -- if I can expand a little**
9 **bit. I mean, this was part of a change. There**
10 **was -- we had a consultant actually look and do a**
11 **salary study. There was changes to position**
12 **ranges, changes to titles, and the merit pay was**
13 **part of that. So, this was -- this took place**
14 **over a period of almost two years between the**
15 **time.**

16 **Q Okay.**

17 **A - the document.**

18 **Q Who was the consulting firm?**

19 **A You know, I don't even remember their**
20 **name. It was back about three or four years ago.**

21 **Q Okay. And then after you -- I'm sorry. I**
22 **apologize if I interrupted you.**

1 **A No, no. I'd be glad to get that for you.**

2 **Go ahead.**

3 Q Okay. So, you know, I've been a village
4 trustee myself, and I remember hiring a consultant
5 to do various things. And then eventually after
6 you get the consultant's report, obviously the
7 board's got to review it, and they've got to
8 decide where they want to go with it. Right?

9 So, after the Board received the
10 consultant's report, then they must've done
11 something -- enacting an ordinance, adopting the
12 merit pay and salary. Maybe it was done at a
13 board meeting, and then you just modified. I
14 don't know. Do you have any idea if there would
15 be any board meeting minutes at which that was
16 discussed, or any documents?

17 **A Well, there was a question about the**
18 **ordinance --**

19 MR. REIMER: Fred, I'm sorry. I was just
20 going to say we're getting some feedback. I'm
21 just trying to get an answer. My apologies. I
22 work for you, so whatever you want to do.

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BY MR. REIMER:

Q I'm sorry, Mr. Niemeyer, so there would have been, I'm sure, a discussion --

A Multiple.

Q -- or an executive -- multiple discussions.

A I would say there was several -- yes, there was multiple meetings and minutes where this was discussed. Yes.

Q And then ultimately --

A There was a document that was passed. Ultimately. And the document -- well, it was probably not -- it was a form like this. It was essentially a pay plan, but I'll -- again, I can get all that for you, minutes and everything. It was at least three public discussions on this.

Q Okay. I'm sure. All right.

MR. REIMER: Members of the board then, are there any other documents that you want me to request from this witness?

PRESIDENT VIOLETTA: No. Ray Violetto. I

1 polled the board, and we have no other documents
2 wanted, nor we have no other questions. Retired
3 Deputy Chief Charles Faricelli would like to say
4 something.

5 MR. REIMER: Absolutely. Make sure he's
6 close so we can hear him. Thank you.

7 DEPUTY CHIEF FARICELLI: I just want to
8 clarify with Dave because, you know, maybe he can
9 clarify, make sure that -- this here is the first
10 merit raise that I got. 2019 I did get a step
11 because I fell in just before the pay plan went
12 into effect when my date was. So, 2019 was my
13 last step. 2020 was the first merit raise.

14 And I just want to clarify with Dave,
15 because he's going to -- just keep making the
16 point that it's called merit. It's called merit.
17 Dave, correct me if I'm wrong, this is just
18 another way -- this is how we're calculating the
19 raise based upon merit of the supervisor rather
20 than step.

21 However, the salary itself is an increase,
22 your normal increase to salary just like you

1 receive each and every year, and it's compounded
2 each and every year on top of that. The merit
3 portion of this, this is not a bonus. It is not a
4 merit raise. It is how we're calculating it based
5 upon the merit of the employee. That's how the
6 calculation is formulated.

7 So, to keep getting hung up on "it's a
8 merit raise," it doesn't -- that's not what the --
9 it's not a bonus. It's my normal salary increase.
10 But they way they calculate it is based upon merit
11 rather than the step system.

12 Dave, would that be accurate?

13 THE WITNESS: Yes. And it's pretty much
14 what I had stated earlier. Yes.

15 DEPUTY CHIEF FARICELLI: Absolutely.
16 That's what I wanted to clarify. So, I appreciate
17 that.

18 MR. REIMER: Thank you, Deputy Chief. All
19 right. So, what's the board's pleasure? Does the
20 board want to discuss it in executive or closed
21 session? Or does the board want to wait and see
22 if the Village amends the pay plan as they -- as

1 Mr. Niemeyer has discussed in January, and just
2 defer any action until then? What is your
3 pleasure?

4 DEPUTY CHIEF FARICELLI: And I just got to
5 tell you, it's hard -- (inaudible) -- you're
6 talking about -- (inaudible) -- am I not mistaken
7 here? We're still talking about a \$106 difference
8 going out -- \$106 total over a 12-month period
9 amounts to five hours a month. Is there a way for
10 me to waive this to get this over? I am more than
11 willing to waive that. I just want to make this
12 easier if I can. I'm not trying to be difficult
13 here. I really want --

14 PRESIDENT VIOLETTA: Okay, Rick. Ray
15 Violetto again.

16 MR. REIMER: Ray, Ray, hold on just a
17 second, because I don't think Karen got what the
18 Deputy Chief said. Did you?

19 THE COURT REPORTER: Janet did not.

20 MR. REIMER: Janet didn't. You couldn't
21 even hear what he said. It was very important.
22 Could you swing the camera and the mic around, and

1 ask the Deputy Chief to do this again, because
2 it's not going to be in the transcript. Deputy
3 Chief, can you hear me?

4 DEPUTY CHIEF FARICELLI: Yes, I can.
5 Sorry.

6 MR. REIMER: Okay. Listen, I apologize.
7 Unfortunately, our court reporter didn't get what
8 you said, and it's important to have that, what
9 you did say. I heard it, but it was pretty hard
10 to hear. Would you mind repeating what you just
11 said?

12 DEPUTY CHIEF FARICELLI: I don't have the
13 documents in front of me, but talking to Fred, and
14 I trust his calculations on this, he said the
15 difference that we're talking about here between
16 the ordinance and what they ended up paying me at
17 the end amounts to a total of \$106. And divide
18 that out over 12 months, it's a fairly
19 insubstantial amount.

20 I am willing on the record to waive -- I'm
21 sorry, \$116. I am willing to waive that \$116
22 difference if that makes this whole process easier

1 for the board and everyone involved. And that's
2 all I was trying to say.

3 MR. REIMER: All right. Thank you, Deputy
4 Chief. I appreciate it. Hopefully you got that,
5 Janet.

6 THE COURT REPORTER: Yes, thank you.

7 MR. REIMER: You did? Great. Thanks.
8 Okay. Ray, I'm sorry. I didn't mean to interrupt
9 you. I know you were going to say something. I
10 just wanted to make sure we got the Deputy Chief's
11 statement.

12 PRESIDENT VIOLETTA: Great. Fantastic.
13 Ray Violetto. I believe that we're ready to make
14 a decision on what we're going to do.

15 MR. REIMER: Okay.

16 PRESIDENT VIOLETTA: And I believe is -- I
17 call for a motion to approve the pension for
18 Deputy Chief Faricelli. And we're going to go by
19 the ordinances that we were provided by the
20 Village. So, we have a base salary of 148,988;
21 longevity of 2,340; school incentive of 1,980;
22 \$120 for a shooting check, and a holiday paycheck

1 of \$6,303.34, for a total pensionable salary of
2 \$159,731.34.

3 Do I have a motion to approve Deputy Chief
4 Faricelli's pension on that final base salary?

5 TRUSTEE EHLERS: Motion.

6 PRESIDENT VIOLETTA: I have motion by Tim
7 Ehlers. Do I have a second?

8 TRUSTEE LINDOKKEN: Second.

9 PRESIDENT VIOLETTA: I have a second by
10 Carl Lindokken.

11 MR. REIMER: All right. What was the last
12 -- what was that lat total amount? For some
13 reason I didn't get it. I'm sorry. \$159,731 and
14 how much?

15 PRESIDENT VIOLETTA: 34 cents.

16 MR. REIMER: Okay. So, you made a motion.
17 You needed a second. Do a roll call vote.

18 PRESIDENT VIOLETTA: Roll call vote.
19 Carl?

20 TRUSTEE LINDOKKEN: Yes.

21 PRESIDENT VIOLETTA: Fred?

22 TRUSTEE MONDT: Yes.

1 PRESIDENT VIOLETTA: Tim?

2 TRUSTEE EHLERS: Yes.

3 PRESIDENT VIOLETTA: Myself, yes.

4 MR. REIMER: All right. So, I should now
5 do a written decision and order, so I would ask
6 the board to entertain a motion to authorize Janet
7 to prepare the transcript of tonight's
8 proceedings. So, I need a motion and second.
9 Because you're doing this remotely, you're
10 required by law to do a roll call vote on every
11 motion.

12 PRESIDENT VIOLETTA: Do I have a motion to
13 have the court reporter prepare the documents for
14 the pension approval tonight of Deputy Chief
15 Charles Faricelli?

16 TRUSTEE LINDOKKEN: So moved. Carl.

17 PRESIDENT VIOLETTA: Second by Ray
18 Violetto. Roll call vote. Carl?

19 TRUSTEE LINDOKKEN: Yes.

20 PRESIDENT VIOLETTA: Fred?

21 TRUSTEE MONDT: Yes.

22 PRESIDENT VIOLETTA: Tim?

1 TRUSTEE EHLERS: Yes.

2 PRESIDENT VIOLETTO: Myself, Ray Violetto,
3 yes. Motion carries.

4 MR. REIMER: All right. So, it looks like
5 you're going to owe him the difference between the
6 uncontested amount of 155,204.30. Correct?

7 TRUSTEE MONDT: Yes. This is Fred Mondt.
8 Yes.

9 MR. REIMER: Right. Thanks, Fred. Yes.
10 That's what he was paid, and obviously that would
11 be retroactive to the date of his retirement. And
12 then you can issue one check for retroactivity, if
13 you like. And then just put him on -- increase
14 that amount to the correct amount that you just
15 voted on for your next payroll period, probably
16 end of December.

17 I'll prepare a written decision and order.
18 I'll serve it upon the Deputy Chief. If, for some
19 reason, he doesn't like that, he wants to appeal
20 it, he'll have 35 days from the date that the
21 written decision order is served upon him.

22 So, Mr. Niemeyer, I thank you for your

1 time. I guess you don't have to put up with me
2 anymore.

3 THE WITNESS: No problem. No problem.
4 Thank you.

5 MR. REIMER: Does the board have any other
6 business, or does the board want to entertain a
7 motion to adjourn?

8 PRESIDENT VIOLETTA: Do I have a motion to
9 adjourn at --

10 MR. REIMER: 6:55.

11 PRESIDENT VIOLETTA: -- 6:55? Ray
12 Violetto.

13 TRUSTEE LINDOKKEN: Second.

14 PRESIDENT VIOLETTA: Carl. Roll call
15 vote. Carl?

16 TRUSTEE LINDOKKEN: Yes.

17 PRESIDENT VIOLETTA: Fred?

18 TRUSTEE MONDT: Yes.

19 PRESIDENT VIOLETTA: Tim?

20 TRUSTEE EHLERS: Yes.

21 PRESIDENT VIOLETTA: Myself, Ray Violetto,
22 yes. Motion carries. The meeting is adjourned.

(Which were all the proceedings had
and testimony taken at the public
hearing of the above- entitled
cause.)

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1 STATE OF ILLINOIS)

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2 COUNTY OF DU PAGE)

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4 I, JANET L. HAYDEN, C.S.R., a Notary
5 Public duly qualified and commissioned for the
6 State of Illinois, County of DuPage, do hereby
7 certify that I reported in shorthand the
8 proceedings had and testimony taken at the hearing
9 of the above-entitled cause, and that the
10 foregoing transcript is a true, correct, and
11 complete report of the entire testimony so taken
12 at the time and place hereinabove set forth.

13
14 *Janet Hayden*

15 JANET L. HAYDEN

Notary Public

16 CSR License #084-004483
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