

TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES FROM THE SPECIAL TOWN COUNCIL MEETING: HEARING RELATING TO IMPASSE BETWEEN TOWN OF PALM BEACH AND PROFESSIONAL FIREFIGHTERS/PARAMEDICS OF PALM BEACH COUNTY, LOCAL 2928, IAFF; NON-SUPERVISORY BARGAINING UNIT

Thursday, October 16, 2003
9:30 a.m.

I. CALL TO ORDER AND ROLL CALL

President William J. Brooks called the Special Town Council meeting to order at 9:30 a.m.

Verbatim Transcript

Brooks:

This is a hearing related to an impasse between the Town of Palm Beach and the Professional Firefighters/Paramedics of Palm Beach County, Local 2928, for the non-supervisory bargaining unit. The hearing has been scheduled to take place and to be concluded within a four hour time period. An agenda has been prepared which sets forth the order of the hearing. I believe that there are copies of the agenda in the back of the hall. So if anyone would like one, they can pick one up.

The attorneys have met and agreed to time limitations related to their opening and closing statements and as to their presentations relating to the articles under deliberation today. These time limits will be strictly adhered to. Mr. Randolph, the Town Attorney, has a stop watch that will help us insure the time restrictions.

After the presentations by the representatives of the Firefighters/Paramedics and the Town, and before closing statements, an opportunity will be afforded for the public to speak. We respectively ask that the comments from the public be limited to two minutes per individual, again these time limits will be adhered to by a stop watch. An individual may not give his or her allocation of time to another individual. In other words, the two minute time limitation may not be cumulative. There will be two minutes per speaker, which time, again, will be strictly regulated. The Chair reserves the right to cut off public comments that it deems repetitive.

After comments from the public, we will hear closing arguments from the attorneys representing the

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deliberate. The hearing will be concluded within the four hour time period. I would ask that please cell phones, and I would suspect because of the people present here, there may be an abundance of cell phones, if you could turn them off, it would be greatly appreciated by the attorneys and the Council and the Mayor.

Obviously we have a very full house today, and I would suspect more people coming, so again I respectively stress to all concerned with this matter, that decorum should indeed, must, be the order of the day. Open-mindedness and willingness to listen are not inconsistent with devotion to principle, and civility can accompany tenacity.

I thank you very much for making every effort to adhere to that request.

Now, Mrs. Pollitt, could you please call the roll?

On roll call, all Elected Officials were found to be in attendance. Also attending the meeting for all or part of the meeting were: Town Manager Peter B. Elwell, Assistant Town Manager Thomas G. Bradford, Town Attorney John C. Randolph, Attorney David V. Kornreich, Fire-Rescue Chief Kent Koelz, Assistant Fire-Rescue Chief John DeLorio, Human Resource Director William C. Crouse, Assistant to the Town Manager Sarah Hannah, and Town Clerk Mary A. Pollitt

II. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Town Clerk Pollitt. President Brooks led the pledge of allegiance.

III. APPROVAL OF AGENDA

Councilman Wyett made a motion to approve the agenda. President Pro-Tem Goldblum seconded the motion. On roll call, the motion carried 5-0.

IV. PUBLIC HEARING

Brooks:

We are now proceeding into the Public Hearing. The opening statement will be ten minutes each. Mr. Mierzwa, representing the Firefighters, will go first. Sir.

Mierzwa:

May I make one request before I start?

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Brooks:

Certainly, sir.

Mierzwa:

I have been approached by residents..I don't know what the rules are. Never appeared here before, but I was approached by several residents who said they weren't going to be able to stay for the full hour, and if the Council would consider allowing some public comment before the hearing, at this point? I have been asked to make that request.

Brooks:

Well, a couple of people have spoken to me also, and I said if you could come back around 1:00 p.m. you could certainly make your comments. My concern, Matt, is, as you know, is that you and Mr. Randolph have agreed as to the format, and I am just somewhat reluctant to change it at the 11th hour. Thank you, sir.

Mierzwa:

I understand.

A. Opening Statements

Mierzwa:

My name is Matt Mierzwa. Good morning. I represent the Firefighters and Paramedics throughout the State of Florida, proudly. Just to give you some background on what happened here, prior. This dispute probably began more than 3 years ago, and that's when Firefighters here believed that they were having their shifts changed unjustly, station conditions were not being taken care of, and their pay wasn't being taken care appropriately. Back in 2000, two paramedics did a pay survey, and concluded the pay of firefighters here were substantially behind the pay of others around the County. They actually came to me in a non-union setting and asked if I could help them, just as an attorney. I provided them some advice, and I believe they did give surveys to you and attempted to have you do something with the wage problem that they had. They believe nothing was done.

At one point in April of 2001, the firefighters and paramedics actually sought out Local 2928, the Professional Firefighters/Paramedics of Palm Beach County, for representation. I understand that Mr. Elwell put out a publication telling the firefighters to get it on, and if they wanted to have a union, to go for it and do it. And they did. The firefighters filed a petition in May of 2001, and there was, what I would believe, in the public sector a pretty hostile, anti-union campaign, in terms of speeches and convincing not to join the union.

In any event, the firefighters voted 47-0 in favor of the union in September of 2001, and even your officers, at the same time, voted 16-1 in favor of the union, because they needed representation

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because their issues were not being taken care of. Negotiations began in November of 2001 and lasted almost two years. I was the chief negotiator for the Firefighters along with a captain and a paramedic in your service as well as Mike Mayo, President of the Local. We spent approximately 18 months listening to proposals for pay cuts, take-aways, waiver of bargaining rights, refusals to agree on simple statements like 'a safe work place', no just cause for discipline. I've been doing this for over 23 years with over 80 firefighter locals around the State, and I have never actually encountered anything like this. It was a very hostile negotiating team from the Town. We kept our composure. We declared impasse in June of 2003, and we went to a Special Master proceeding before Stanley Sergeant. Those took two days, and he issued his decision which actually led us to being here.

Subsequent to the decision, the purpose of the decision under the Town Code and Statute is to get the parties to meet and talk about it, to see if we can get them to move. Well, when we met, we met actually on a Sunday here, because that was the only time we had available in the statutory time, and the Town sent an attorney who we had never seen before, never had participated any in the negotiations. That's who we were asked to deal with.

Our proposal was to accept everything we had agreed on and combine it with everything the Special Master awarded, good or bad. Combine it all, get a contract, and we would be done for three years through September 2005. The Town's position at that meeting was, 'Our position on everything has not changed. Nothing has changed in the Town's position.' So, what we did was issue a letter saying that we accepted everything the Special Master decided. Do you have these books with you?

Brooks:
Yes, sir.

Mierzwa:
If you would turn to the second page from the front, after the chronology, you'll see what happened here. On the far left, those are recommendations in the Town's favor, several of them. The Special Master issued several decisions in the Town's favor. We accepted all of those. Everything in the Town's favor. We accepted the whole thing. You'll see in the third column recommendations in the Firefighters favor accepted by the Town was only one, and that was because that was an illegal proposal to take to the Special Master to begin with.

On the right hand column, that is everything in the Firefighters favor rejected by the Town. The Town Manager rejected every single favorable finding to the firefighters. Every single one without exception. That's why we are here. Now, on the next page, I just want you to have some idea who the special master is. That's his resume for the American Arbitration Association. We are on the third page in the front of the book.

Stanley Sergeant, the Special Master, spent the first fourteen years, from 1966 to 1980, as a corporate management attorney. That's his background. Fourteen years as a corporate management attorney.

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You see on the bottom his work history. He spent the last twenty-three years as a neutral. He has been appointed by the State as a Special Master. He's been appointed, actually, by the Town as a Special Master. He serves as an arbitrator on the American Arbitration Association. If you look at the bottom of the page where the Federal Mediation Conciliation Service, with a national mediation board. He's on the National Academy of Arbitrators. He is in almost on every neutral body and group imaginable. He's not a union person. His background is management, and he has been a neutral for the last twenty-three years. So, that's whose decision we are dealing with.

If you turn the page, that was his appointment where both myself and David Kornreich agreed on him to serve as a Special Master. Furthermore, on the next page, after the rank and file hearing for Firefighters and Drivers, the Town declared impasse in the supervisory negotiations, and in that letter, notified the commission, the PERC Commission here, that it prefers the appointment of Special Master, Stanley Sergent. So, we are not dealing with somebody who is a union person. He has a management background and a neutral at the present time. His decision was not solely firefighter oriented. I would guess that the firefighters won 60% of the issues and the Town won 40%. We actually lost issues in front of the Special Master. Very important issues. We had our pay for overtime reduced by the Special Master, and we accepted that. We wanted additional shift changes, exchange time, so we could get out of work more frequently. He ruled against us. We accepted that. He limited our ability to bargain during the term of the agreement. We accepted that. He adopted a Town proposal where people could be fired for failing a second physical. We weren't happy with that. We accepted it. We accepted every single decision that he issued, good or bad. What we are left with is what the Town Manager rejected, and that is what you need to consider.

Lastly, on the last page before the Table of Contents, if you weren't told, this is from the Town Code. This is the proceeding in accordance with the Town Code, and we are at the bottom of the left hand column where you, as a legislative body, take such action as it deems in the public interest, including the interest of the public employees involved, to resolve all disputed issues.

We ask you to take the interest of the public involved here. We ask you to take the interest of the employees involved in your deliberations and your listening today. We have a group of dedicated firefighters and paramedics who really need you to listen to our concerns. They do not believe they are being listened to. In our opinion, they have not been listened to. You need to address their issues. You have a problem here. Now, when we first, under the law, the Town Manager and the Town negotiators were supposed to consult with you about what they brought to us in negotiations. That's in the Town Code and that's in the State Statutes. They were supposed to consult with you and bring your wishes to the table.

Unfortunately, we believe what they did was bad, and what you did was bad if you sent them out to take away benefits like where we are today, thousands of dollars in pay cuts and other kinds of take-aways. It's just not right. We've gone through the process. We are here. We are asking you to consider our presentation and rule fair today.

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Thank you.

Brooks:

Thank you, Mr. Mierzwa.

Not on the agenda, but I have spoken with Mr. Mierzwa, Mr. Elwell, the Town Manager, would like to speak for a few minutes before I go to Mr. Kornreich. Mr. Elwell, please.

Elwell:

Thank you, Mr. President. We intent for this to be part of the Town's opening so as to not gain any extra time to speak, but that I will speak for a moment and David Kornreich will continue to present the opening statement on behalf of the Town.

For the record, I am Peter Elwell, the Town Manager of the Town of Palm Beach, and I want to begin by making it clear that the management team, as well as I know this Mayor and Town Council and the community respect the firefighters and paramedics of the Town's department. We appreciate the essential work that they do, and we admire the professional and caring way in which they serve the community, and that's why I am deeply disappointed that these same firefighters and paramedics that are in fact so dedicated to the service that is provided to the community, had cast a specter of fear over these proceedings today with the activities of the past week.

This is America, after all, and we certainly all respect the right that the firefighters and paramedics have had to take their message to the streets. But they didn't have a right to send a message that was consistent with the old adage that the right of freedom of expression doesn't extend to screaming, falsely, 'fire' in a crowded theater, and I am concerned that some of that has occurred in the community, and I think we need to address that at the outset of the meeting today. No patients health or safety is at stake in this hearing. The Union's signs, pamphlets, and phone calls during the past week have created fear of diminished services or even strikes. I've had calls from residents who were concerned that this was all leading up to firefighters going on strike, and the community being without this essential service. The message was that if the Union didn't get what it wants, the patients will suffer. We think that it needs to be made clear at the outset of the meeting that State law prohibits any strike by the Fire-Rescue employees, and that the Town's actions will insure that first class service is continued to be provided to the residents and visitors.

The Town has had a long history of recruiting and retaining top quality employees. That tradition continues today. The six of you together, this Mayor and Town Council, during the past 3 ½ years have done more to improve the pay and benefits of the Town's employees during your service together than any similar group of Elected Officials during the last two decades. Because they are professionals, I don't think that the union employees will allow any decline in the level or the quality of the services that they provide to the community. I know that your management team won't allow any such decline in services. So, I urge us all to stick to the facts today, and to address them rationally and reasonably. Over time we will restore the community's sense of security and their

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confidence in the services provided by the Fire-Rescue Department. We can begin that process today by removing the specter of fear from this hearing, and now to continue with the Town's opening statement, I present Attorney David Kornreich.

Brooks:

Thank you, Mr. Elwell, Mr. Kornreich.

Folks, there are three seats available in the front. There are two in the second row on your left if anyone should care to use them.

Mr. Kornreich, please.

Kornreich:

Good morning, Mr. President, Ms. Mayor, Council Members, Town Attorney.

This is a difficult situation, undoubtedly. We've heard Mr. Mierzwa's opening statement. I don't want to belabor the issues, the substantive issues will be discussed, issue by issue; however, I think that some things that Mr. Mierzwa stated are out of context. I think that we all should know that 45 articles were brought to the negotiating table, and as of today, 34 of those articles have been resolved, whether through the negotiating process or through the Special Master's report. 34 articles are now resolved, that's fully 75% of the contract.

We have 11 contract issues that are still before you at this point. In many cases, those articles, as you will see from your package, are merely a single item within a much more major article. So, you may have a page or two of articles which has been agreed to and perhaps one sentence or two sentences that have not been agreed to. So, I think the magnitude of the dispute maybe can be overstated. Now, indeed there is a wage dispute which is important to both sides, and we will be addressing that in the context of this proceeding. Once again, this is a first contract. We are here to negotiate a first contract. The dispute is before you that deals with a first contract and anything that you decide will form the basis for future relationship with the Union. This does not mean that negotiations are over. It simply means that what happens here today will result in how we will proceed in going forward. But either side will be able to continue negotiations, indeed, both sides are mandated to continue negotiations going forward. So, what you decide here today is not something that stays alive for 3 or 5 years, it is simply the status quo which will be established until the parties negotiate something else which can proceed from now to any time forward.

With that, I would like to say very simply, the Town believes it has proposed a very, very competitive wage proposal. The employees here, the bargaining unit employees, have received salary increases in excess of 50% over the past five years. They object to the methodology perhaps. We have a difference of opinion as to pay-for-performance vs. step programs. We went ahead and adopted a step program. They don't like our step program. There is an issue of longevity pay which we feel is a bonus program and not necessarily an entitlement, and with that you will hear these

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issues discussed at great length. With that I will end my opening statement, and we would like to proceed with the issues.

Brooks:

Thank you, sir. The opening statements now have been finished, and we'll go into the presentations relating to the articles, and the first one is the Preamble, and the Town goes first there. Go ahead Mr. Kornreich.

B. Presentations Relating to Articles

1. Article 1, Preamble

Kornreich:

You have before you the Town Manager's recommendation on the preamble. As most of you have dealt with contracts, perhaps not in the context of a labor agreement, you understand what preambles are. In the case of a labor contract, we normally regard, from a management standpoint, the preamble as a non-essential item. Nothing of terrible significance. However, in this particular case, the Union wishes to interject terminology in the preamble which would state that the purpose of this contract is to promote harmonious relationships.

Well, this may sound innocuous, however, but we would strongly recommend against this type of proposal. Why? Because with that type of vague terminology, and the Union has a right to arbitrate each and every provision in this contract, and the arbitrator ultimately, a neutral arbitrator, ultimately has the right to interpret each and every word in that contract. We have found over the years that the terminology 'harmonious relationships' in other jurisdictions with the firefighters union has been used to promote issues which otherwise are not specifically addressed in the contract. To attack rules which the Union feels are unreasonable or not harmonious although the remainder of the contract does not prohibit these rules or these policies. The point is that this would restrict management's rights to promote reasonable rules, because wherever the contract is silent or wherever the contract allows such rules, the firefighters union can assert the harmonious relationship clause to say, 'but what you're doing is not harmonious...does not promote a harmonious relationship.' This is unnecessary language, and we recommend that it not be upheld, and we recommend that it be rejected.

Thank you.

Brooks:

Now to present the Union's side on Article 1. Mr. Mierzwa, please.

Mierzwa:

If you look at tab 1 in our booklet, that's Article 1, that was the Union's proposal. The first page, and you'll see there are two sections – one where the Union proposed that members in the bargaining

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unit exhibit a high degree of professionalism and moral standards. It is interesting that was our proposal. The Town Manager rejected it, and today he is speaking about some so called threatened strikes or stuff that I have no idea what he is talking about. He rejected the language in a contract that we were putting in that we would engage in a degree of professionalism moral standards.

With respect to the harmonious relations issue, there is a proposal here as the purpose of the agreement to achieve and maintain harmonious relations. Interesting enough, if you turn the page, when we proposed that, Attorney Kornreich's response was to, when Liz Nowacki, one of your paramedics tried to explain that we want to get together and try to work together. She took over the session from me and said let's just put this in here. It seems like a good intent to start off. According to the paper, Mr. Kornreich took a hard line stand and out right dismissiveness to Firefighter Liz Nowacki, a novice negotiator, which contrasted sharply with the cooperative tone proffered by the Town.

That's why we want it in there. We want an expression that we are going to work together, and when we proposed that, we had a negative reaction. Don't understand it.

The next page in there, you'll see the Town Code includes almost identical language. Your Town Code includes almost identical language that the policy statute which implements collective bargaining through harmonious and cooperative relations. It is in the Town Code. It's also in State Statute. The same language is in State Statute. Frankly, we don't why we even have to present this as an issue. Why someone would object to putting it in. Now, additionally, it's in seven out of the eight collective bargaining agreements in the area. That's the next page.

Now, the statement that it could cause grievance problems and the like was raised at the table. It could cause grievances at arbitrations and would restrict management rights. When that statement was made, I said and I stand that this local, I represent all locals in the County, no local in this area has never gone to an arbitration to take away a management right based on the preamble. It does not exist in this area. You can go up and down the Coast. It has never happened in 35 departments. It is just a red herring. Now, the only piece of evidence that the Town submitted on this issue at Special Master proceedings was a 1990 grievance, a 2000 grievance, filed in Martin County that never went to arbitration. That's the only evidence they had. The claim that it could lead to arbitrations is simply spurious. It's unsupported by evidence. Frankly, the Firefighters and Paramedics don't know why the Town would oppose putting this language in a contract. And the Special Master agreed with the Union, because the Town's rejection of the Union's proposal, according to the Special Master, was not based on any legitimate reason, but instead because they simply did not want to. In other words, the Town's position was unsupported by anything according to the Special Master. It was just that they didn't want to. That's what we faced in negotiations. The Town just didn't want to. We don't believe that is the way to conduct negotiations. We don't believe that is a proper way to proceed or the proper way to begin a relationship with your Firefighters and Paramedics. It's just not right.

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Thank you.

Brooks:

Thank you, sir. Please stay at the microphone as you go first on Article 3, Dues Deductions.

1. Article 3, Dues Deduction

Mierzwa:

We did reach an agreement on dues deduction for the most part except for two proposals. The Town proposed to prohibit the deduction of, by the way, as an aside, under the State law and the Town Code, you have to have dues deduction if we ask for it. So, that was not a concession by the Town. It is in the State Statute and Town Code. What the Town added on to that was a prohibition against a deduction of legal service plans, payments to a legal service plan, and PAC deductions. We didn't want that language. We wanted the you'll have deductions for legal service plans and PAC. Now, when this came up in negotiations, you can see on the next page, the Town's response was, 'We don't think we have to, and we don't want to.' So, the Town's position on inability to deduct, the refusal to deduct legal service plans, was simply we didn't have to. We don't want to.

Now, remember, dues deductions both for legal services and PAC are permitted by the Statute and by Attorneys General opinions. They are perfectly lawful. Now, what the legal service plan is, it provides for things like wills, real estate closings, drafting trusts, reviewing credit reports. It is a simple low key legal services plan. By the way, in terms of the area, seven governments in the area allow deductions for this particular legal service plan. More than 800 firefighters participate in the legal services plan, and neither the firefighters or paramedics nor the Special Master understood why the Town would oppose this. It is a no cost item. We never understood why they were opposing it except they didn't want to. Literally, their position in negotiation was, 'we don't want to.' That's what we were faced. We don't want to.

In the rejection letter that Town Manager Elwell submitted to you, it said in there, it could be used to sue the Town. But we never heard that before. Never heard that before. It was never raised. Actually, if it had been raised with us, if we'd been asked about it, we could have told the Town, labor matters are excluded from the legal service plan. You can't use it to sue the Town on labor matters, and actually the City of West Palm Beach raised the same objection, and when they raised the objection, we told them here's the legal service plan. We can't sue the Town. We won't sue the Town. In 23 years it has never been used to sue an employer. We will even put in language that prohibits suing the Town, and they said no, that's fine, we understand, it's not used for that purpose, and they started deducting. Interesting enough, that started in October, this month, they just started when we explained it. It came into being. They asked us about potential problems like Town Manager Elwell raised, and we dealt with it, and it was over. Unfortunately, we heard about this claim for the first time in this rejection letter. This is not the way to do business. To never say, 'we don't want to' for two years, and then all of a sudden in a rejection letter to say, 'well they could sue us for it'. It's substantively wrong. It's just not the way to do business. This is what we were faced

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with when we were negotiating. No answer, except we don't want to and then in the end some kind of issue being raised that has nothing to do with what we are talking about.

Now the Special Master saw this and basically adopted the recommendation, based on the fact that it is a benefit to employees, without imposing a burden on the Town. It's permissible under State Statute, and over 800 firefighters participate in this and seven governments in the area. Now, remember, we are only dealing—it look's like when I am talking on this second issue that the Special Master is always ruling in our favor. He ruled against us on the PAC deductions. He said you can prohibit PAC deductions—even though the Attorney General said they are lawful. The Attorney General said they are lawful. Special Master said it, we said okay we will drop our proposal for PAC deductions and just leave the deductions for legal services. The response from the Town was we'll take what we won and we reject what we lost. So, this was a compromised, well-reasoned decision by the Special Master, and the Town Manager's position on every issue here is heads I win, tails you lose.

Randolph:
Time, Mr. Mierzwa.

Mierzwa:
Thank you.

Kornreich:
Once again, Mr. Mierzwa overstates the Town's position or misstates the Town's position. The Town, indeed, agreed to deduct collectively bargained dues and assessments and that's the Union's thing. They can have their dues money. The Union wanted PAC deductions and legal services deductions. They could have asked for any number of kinds of deductions. Should we have deducted any kinds of things they asked to be deducted? Why? Why should the Town be the administrator for the Union's funds? We see no reason for that. You know, it is very interesting again. This is a first contract, and yet Counsel proceeds to tell us that the City of West Palm Beach which has probably had a contract for God knows how long, is now first getting around to agreeing and understanding what this legal fund is and has only recently started deducting the amounts of money. Very interesting, but this is a first contract. This is a base line contract. We need to feel our way, establish a first contract, and again over the next few years enhance that contract as we understand more our relationship with the Union. The Union, however, feels that anything they throw on the table, whether it's PAC deductions which they lost or legal services which the Special Master said were not harmful, they can just add more and more things to deduct. At this point, they have the right to get their dues deducted through the payroll system. They can use those dues for whatever they want. If they want to use them for legal deductions internally, they could probably figure out a way to do that if they want to do so. The Town is not the administrative agency for the Union. It may be down the road somewhere as things proceed, the Union will raise other deduction items to add to the list of items, and those will be considered in due course, but right now we see no reason for the Town being the administrative agency for the Union.

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Brooks:

Thank you. You might as well stay there, David. We are going to move now to Article 8, the meeting rooms, and you will go first and Mr. Mierzwa will go second.

C. Article 8, Meeting Rooms

Kornreich:

As we all know, there is a meeting room down at the South Station, and that meeting room hosts various public events and is rented out by organizations, and indeed the Union has the right to rent out that meeting room for its own meetings. What the Union wants is for the employees on duty at that station, while on duty, to be able to attend Union meetings at that station. Now, interestingly the employees at the other stations who are also on duty would not be allowed to attend, but the Union says 'what's the harm in the employees who are physically present at that station simply walking over, right there, to the Union meeting and attending the Union meeting while on duty?' The Union would argue that these folks would be sleeping or watching television anyway, but the fact is that these people are on the clock. They are being paid by the Town at this point in time. They are being paid by the Town. They are Town employees, and they are not being paid to attend Union meetings. They are being paid to be on the alert which I am sure they all will be. However, there really is some serious precedent to create here which we do not want to create, and that is employees using their paid time to attend functions which are not the Town's functions, and we cannot create that precedent. We can not recommend that you create that precedent.

Some of the things that happen at Union meetings, and I am the son of a Union machinist, and Union meetings were held in my home. I have been to Union meetings, and as some of you probably know, Union meetings get pretty heated at times. It is the American way as we are stating our positions here, Union folks get together and they disagree amongst themselves. Now these people who are on duty—What do they do after coming back from a hotly contested Union meeting? Do they immediately jump on their trucks? Yes, that's what they will have to do. Do they have to do so in the middle of the Union meeting? Yes, that's what they have to do. However, is it appropriate, is it appropriate for these folks to be revved up about a Union meeting, involved in Union functions, and then all of a sudden in a split second have to return to their duties. We think that is a distraction, and we think even further, it is an improper precedent to create, to have folks who are being paid by the Town to work for the Town released to attend a Union meeting. So, we recommend against their ability to attend Union meetings on duty.

Brooks:

Thank you, sir. Mr. Mierzwa, if you could take Article 10, please. Personnel Reductions.

Mierzwa:

I need to answer the Meeting Rooms.

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Brooks:

Excuse me. I'm sorry.

Mierzwa:

Just one step back on dues deduction, you'll notice the answer is we don't want to. There is still no reason other than we don't want to.

On meeting rooms, the answer is we don't want a precedent. Now, first of all if you will look at tab 3, the proposal actually states: 'personnel assigned to Station 3 on the day of the meeting shall be allowed to attend except as such attendance would interfere with responding to emergencies.'

Now, station 3, the meeting room is actually connected to where the firefighters are. The supervisor of the firefighters is responsible for the room. The firefighters clean the room. The firefighters prepare the room for meetings. The firefighters and paramedics are in the room doing for other groups; setting up. It's their responsibility. The meeting that the unit, by the way it's not a Union meeting, it's just the unit people. It's only Palm Beach people. It's not people from the County or elsewhere, it's only people, employees of Town of Palm Beach, who go to these.

The meetings are after 6:00 p.m. usually 7:00 p.m. at night which is commonly referred to as 'down time'. Firefighters go through the regular routines, training and inspections, throughout the day, 8 to 5, 8 to 6, whatever, and after that time, they normally dress down into a jump suit and they are allowed to relax, train, read books, watch television. That's their down time when they are waiting for calls. Well, what we are asking, is that the people in Station 3 simply be allowed to open the door and take five steps into the back of the room. That's what this is about.

They are still on duty. They could be in the room anyway. The only reason why they can't be there is because it is a meeting of paramedics and firefighters. They are readily available for calls, and we believe this would actually promote communication so that members are well aware of what is going on on unit issues. Now, the Special Master agreed with us on this and recommended like on every issue today before you, recommended the adoption of the Union's proposal for several reasons. They provide a benefit at no real cost. Firefighters and paramedics will be at the station, readily available to respond, and the Town has never provided any good reasons for rejecting the proposal.

Now, the one reason just provided today was that the Town does not want to set a precedent for, I think the quote was, employees using paid time related to Union matters. Well, the Town already did agree to that. The Town agreed to allow employees to handle grievances. For example, if there is a grievance involving a discipline or there is a grievance involving any other issue, the employee, if it doesn't interfere with emergency activities during the day, can, for example, walk over and meet the Chief and discuss a grievance matter. They do it now. There's already a precedent for it that the Town has agreed to, and in fact this language in Article 8 is the same as in what the Town agreed to for grievances. That a local representative can attend grievance meetings except for such attendance would interfere with responding to emergencies. We just took that same language and

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put it here to be able to walk, literally, five to ten feet into a room and stand at the back fully available to respond.

This may sound frivolous. It may sound small. The problem is this is what was happening on issue after issue whether it's the preamble or whether it is the dues deduction, or whether it is the meeting room, it is just simple, fundamental, small things that we couldn't extract an agreement on, and that's why we are here.

It all goes to us, the simple meeting room issue goes to the same issue, and that is to deal with the firefighters and paramedics on an equal plane and deal with them fairly and class and respect. That's what we are asking. That's what a lot of these issues are about. This like the other issues we are asking that you adopt the Union's proposal which was recommended by the Special Master.

Thank you.

Brooks:

Thank you Matt, and now if you could proceed, please, with Article 10, Personnel Reductions.

Mierzwa:

The personnel reduction proposals in tab 4 in your book, and it's pretty simple, and it's employees—should there be a layoff, and we hope there would never be one—should there be a layoff that employees be laid off by seniority.

This is a concept, if you turn the page, that exists in every department in the South Florida area. Every one has it in Palm Beach County. Every one had layoff by seniority, and I believe that every single department, 35 departments in all, Southeast Florida, have the same language—that employees, in the event of a layoff are laid off by seniority.

The Special Master ruled in favor of the firefighters on this issue. Why? Because it is not only prevalent in Palm Beach County and Southeast Florida, it's basically the principle throughout the State of Florida in all collective bargaining agreements. The Special Master recommended it, and it's interesting that he used a quote from a prominent arbitrator who once observed 'wages are the heart of a collective bargaining agreement. Seniority is its sole.' With that thought in mind, coupled with the fact that seniority (inaudible) well in every contract in Palm Beach County and throughout the State of Florida, I recommend adoption of the Union proposal. We request that you adopt the Union's proposal on this which is the first page of tab 4 which is also recommended by the Special Master.

Thank you.

Brooks:

Thank you, sir. Mr. Kornreich could you speak for the Town on the subject of personnel reductions.

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Article 10.

Kornreich:

Article 10, personnel reductions.

As we all know, the Town is in an expansionist mode as far as personnel. More firefighters are being hired, and, as you know, additional units are being put on. You have station expansion. We certainly do not foresee a personnel reduction in the Public Safety area, in the firefighter area. Yet, this is a standard clause that appears in lots of contracts to, of course, protect the firefighters from what could happen which more than likely will not happen.

In any event, the difference of opinion is very simple, and Matt has outlined it. The Union feels very strongly that seniority is the way to reduce employees in the work force. So, he or she who has the greatest seniority survives in the event there is a layoff and indeed can bump down and can knock off some other person in a lower classification perhaps as well. Now, you know, that sounds okay in practice; however, we have Ameritocracy in this Town. You folks and your predecessors have created a situation where performance is very important. Performance is the way that this Town has been managed for a long, long time. So, our system that we have proposed on personnel reduction, again something which we hope will never happen, is somewhat different. It simply says that we look at the person's performance evaluations, the last couple of them, to determine who is the best performer, and if the best performer is clearly identified, we retain that person, regardless of seniority. However, seniority is not disregarded. Folks if there is a tie between two performers based upon their performance rating, then our proposal, which I think Matt neglected to mention, says that seniority will be the determining factor. Again, seniority will be the determining factor, assuming we have two equal performers.

We think for a time like this, that is an important way to go. You want to keep your best performers, not arbitrarily simply because somebody has been the longest. I think that it is very important that Matt has mentioned the overall context of these negotiations and the overall context of the Special Masters report. Keep in mind what the Special Master said in some places in his report is that the public sector is different. You know, all this corporate stuff the Town is doing is not a very good idea because governments do things differently. Well, folks I am arguing here today that governments don't have to do things differently. There's no law that says governments have to do things differently. If it is good for the private sector, it certain segments of society to take the best performers, and if top management believes the best performers should survive, then that is good for the Town. Seniority should be used. Again, I emphasize seniority should be used to break a tie, and that is what we would propose and that is what we would recommend.

Thank you.

Brooks:

Thank Mr. Kornreich. We move now to Article 13, Discharge and Disciplinary Action. Unlike the

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predecessors to this article, ten minutes will be afforded to each side, and Mr. Kornreich you are up first.

D. Article 13, Discharge and Disciplinary Action

Kornreich:

This is a somewhat esoteric article. What we are talking about here is the standard which an arbitrator might use to determine whether the Town has conducted itself properly in a disciplinary action. We're proposing that the Town be able to discipline employees as long as the reason for such discipline is not arbitrary or capricious. The Union says that is not a good standard. They want, admittedly, a higher standard, and that standard is called just cause. The burden would be upon the Town to show that there must be just cause for the disciplinary action.

Let's start again from the beginning, like personnel reductions. We do not have rampant disciplinary actions in this Town. I think we all know that. Firefighters are not flying out the door. They are not being fired wholesale. They are not being suspended. They are not even being reprimanded to any great degree. We have good firefighters, good paramedics, good officers, and as Mr. Elwell said earlier, we have a good professional tone here, but again we are dealing with things that have to be dealt with in a collective bargaining agreement. They might not have an impact today or tomorrow, but they are things the Union wants in the agreement, and we need to respond as management. Now, with that said, we feel very, very strongly that already in place, and already in the article before you, again let's keep in mind that many of these articles, we are only talking about a few words. The rest of the article has been agreed to. Let me emphasize to you that in the article that has already been agreed to, the Town incorporates a thorough due process, investigative, disciplinary action procedure. That is incorporated by reference. The Town policies which I have reviewed thoroughly are many pages in length, many pages in length and require the Town to jump through many, many hoops before an employee is disciplined. The employee has the opportunity to hear the charges against him or her. The employee has a right to Union representation or legal counsel. The employee has a right to make a written statement. The employee has a right to present witnesses and on and on and on and on. That is already agreed to. That is already in the Town's rules which are incorporated in the collective bargaining agreement. So nothing changes there.

However, what we are saying is if we use this just cause standard which the Union proposes and which the Union will argue, of course, that that is the way it is in lots of other contracts, and I'll say again, just because it is that way in other contracts, doesn't make it right. Indeed, there is at least one town or one city in Palm Beach County that uses an arbitrary and capricious standard for certain things in its contract and there are others throughout the State. I've been involved in other areas where they have arbitrary and capricious instead of just cause, and we would recommend arbitrary and capricious because it prevents an outside arbitrator from coming in here and simply saying arbitrarily that the Town's rules are unreasonable and therefore turning a disciplinary action.

Now, again if the matter is reviewed in court, then the court would have to decide if the arbitrary and

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capricious standard was met, and again that is a more favorable standard to the Town. No question about it. I do not deny it, but I feel strongly given the nature of this Town and the enlightened management here and the due process procedures we already have in place that is a proper standard and I recommend that we use the arbitrary and capricious standard and not the just cause standard.

Brooks:

Thank you, Mr. Kornreich. The Union's response now please from Mr. Mierzwa. You have ten minutes sir.

Mierzwa:

I'm going to do a one minute public service. I've been asked by some people—some people are very cold. I like it cold but I have been asked to relate that certain residents are cold.

The discharge and discipline, it's on our tab 5 in our book, and it's a simple sentence. Disciplinary action may be taken for just cause. Now, there are a couple of background thoughts. This proposal I believe is probably the essence of the relationship. Mr. Kornreich knows that this union will never sign a collective bargaining agreement without just cause. The chances of that happening are, I shouldn't say never, the chances of that happening are so remote it's beyond my imagination, because I have been doing this for 23 years for a 1,000 contracts, and I've never done that, and I have never had a labor organization ask me to do that. It's just not going to happen. It defines the relationship between the Town and the firefighters as a group. Why? Because if wages are the major issues and benefits, just cause is really the essence of what a collective bargaining agreement gives to employees. It gives them a standard of review when they are ultimately disciplined, and I understand the Town has procedures, and they are actually in 13.2. We've agreed to incorporate what you have up to the final decision. There are all kinds of procedures and the like. The bottom line is that when push comes to shove and the Town is going to discipline a terminated employee, the question is: How is that action judged? We propose that it be judged by just cause. I can tell you that, personally, I've been responsible for just cause provisions reinstating dozens of firefighters, and I can say that almost all of them are still working as very good employees with their employers.

In the end, we want the standard of just cause. Now, the second introductory point here is that the Town Code and State Statute, in terms of the Special Master proceedings, require the Special Master, there's a code in the State Statute, have told the Special Master to look to comparisons in making his decision, and that is very common in all Special Master proceedings. Look to comparisons. That's an important factor. In fact, there are five factors in the Statute and two of them are comparisons. That's why we focus on comparisons. It's not simply because we think that's nice. It's because it's in the Code and in the Statute. The founding fathers here, whoever put that in, put it in here to look at comparisons. We don't want to simply push aside comparisons as something that the Union wants. Comparisons are in the Town Code. Now, what are the comparisons? Every contract in this County provides for just cause. In fact, I can't find a contract for firefighters and paramedics in 35 to 40 departments from St. Lucie County to Key West that doesn't have just cause ultimately as a standard for evaluating discipline.

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There's a reason for that. It is the reason I gave before. In the end it is the dignity that an employee ultimately has the disciplinary action judged by a standard of just cause. Now, at the Special Master's decision, he writes: 'Just cause is the standard found in almost every modern collective bargaining agreement.' It's not only found there, it is found there for good reason. It survived the test of time. Just cause has been in existence for 60 years or more in collective bargaining agreements. It not only has survived the test of time, but it has been accepted by labor. It has been accepted by management. This isn't a Union/labor concept, it's been accepted by management and by arbitrators to be the most fair and equitable means of resolving disputes concerning discipline and discharge.

Special Master Sergeant recommended it strongly, and a couple of final comments on this. 1) Interesting, I was sitting the other day, I polled in our office, we have files on these Special Masters and arbitrators, and I pulled it out, and in the last 3 public cases by Stanley Sergeant, he upheld the termination under a just cause standard. So, it is a standard. We are not trying to ham string the Town. It's a standard that is utilized throughout the United States, a 100% in Southeast Florida. It is a standard that has survived the test of time and belongs in this collective bargaining agreement.

Interestingly during the course of these Special Master proceedings, Jeff Mandel, who represented the Town at those proceedings, basically, somewhat tongue in cheek, argued that the employers in the Town don't trust arbitrators to make the call on a management - on a disciplinary issue. That's why you want a standard of arbitrary and capricious instead of just cause. I trust arbitrators, but interestingly enough, so does the Florida Statute, because the Florida Statute requires your collective bargaining agreement to have an arbitration provision, a grievance provision, that ends in arbitration. The Florida Statute requires that. In fact, your Town Code requires this collective bargaining agreement to have a grievance procedure that ends in arbitration. So, whether Town management doesn't trust arbitrators or not doesn't really matter. The Town Code trusts them, because they put it in the Code that this contract has to have arbitration as a final step in grievance procedure, and again we would ask that you would adopt our proposal which is the proposal adopted by the Special Master.

Thank you.

Brooks:

Thank you, sir.

In Article 14, it is my understanding, Mr. Elwell, that this is off the table and that the Town has agreed with Mr. Mierzwa and the Union so if you will scratch Article 14 from the agenda, and we will move now to Article 17, Promotions, and Mr. Kornreich you will go first for the Town. We are now back to the five minute limit.

Thank you.

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F. Article 17, Promotions

Kornreich:

Now here again we have a contract that is very lengthy, and all we are talking about is one provision of that article. So, notwithstanding Mr. Mierzwa's assertion of lack of cooperation and all of these problems in negotiations, we again have a contract article where page after page, and I think it is before you, have already been agreed to. We have agreed to promotional procedures. We modified the Town's promotional procedures. We clarified promotional procedures to offset any objections by the Union, but we had one issue that fire management thought very important.

As you well know, the Town, as well as fire departments in other areas, in other geographical areas, is really predominantly a rescue-medical service provided at this point. And in the course of providing medical services, we more and more utilize paramedics who are also certified firefighters, of course, but their predominant function on any given day is delivery of medical and quasi-medical services. Well, because of the fact that the Town is now hiring only paramedic-firefighters, the Town no longer hires firefighters who are not paramedics, the Town thought it was necessary to notify the incumbent employees that in order to become a lieutenant, one has to be a paramedic by January 2005, and the reasoning is very, very simple. The reasoning is: How are you, as a lieutenant without a paramedic certification, going to supervise this principal function of the Town which is the delivery of medical services and quasi-medical services?

When you have a medical scene and a lieutenant who is not a paramedic comes onto that scene, is he legitimately going to be able to supervise the paramedics who have a different type and superior knowledge in that particular function? Moreover, is that fire lieutenant who is not a paramedic going to be able to evaluate a paramedic for his performance evaluation when he, that lieutenant - he or she is not a paramedic? The fact is that many of our firefighters who desire to move forward, and who are not currently paramedics, are going to paramedic school at the expense of the Town, and it is a perfectly legitimate function of management to establish the qualifications of its employees; that is employees who want to be lieutenants in the future by January 2005 need to be paramedics. It is a reasonable requirement. It is one that all of the employees have been notified about, and many of them, I understand most of them who desire to be lieutenants are already going to paramedic school and will qualify, will have the necessary qualification by January 2005. This is a reasonable requirement. It is necessary for the Town to deliver its services which are predominantly medically related. We therefore recommend that you uphold this requirement in the promotional article, and as I say again, it is only a small portion of an article that has been substantially agreed to.

Thank you.

Brooks:

Thank you, sir. Matthew, if you could present the Union's position on this issue.

Mierzwa:

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The argument given in negotiations, at the Special Master, and here, the major argument is: How does a non-paramedic officer supervisor supervise a paramedic subordinate? How does a non-paramedic officer evaluate a paramedic subordinate? Well, there's a simple answer to the question: How does the Chief supervise paramedics? How does the Chief evaluate paramedics? Because he is not a paramedic. If the Chief went to a mass casualty incident, he's not a paramedic. There would be both medical issues, and there would be also non-medical issues. For line of authority, a non-medical issue goes by rank structure. The line of authority on medical issues goes by medical certification. A non-paramedic lieutenant doesn't supervise a paramedic firefighter on a medical call. That's the answer. In the same way the Chief wouldn't supervise a paramedic on a medical call, because he can't. So the concept is not new of having non-paramedic supervision. It exists today. It exists at the highest rank in your department. And more importantly, it exists in every single firefighting paramedic department in the State of Florida that has both medics and non-medics.

Again, on medical calls, it's the medical qualifications that give you supervision, authority, and on non-medical calls, it's your rank. This concept is accepted every where. We frankly don't understand the Town's position on this, and we never have. Now, this local Union and your firefighters and paramedics are behind education. We just think you don't need this qualification. It applies to just a hand few of people. It's not needed. There is no demonstration that it is needed. We support education. In fact, the language here about paramedic certification came from this local with the County. What they said, agreement in the County was, you have to be a certified paramedic, but because not everybody has to be a paramedic immediately, to get promoted you do not have to go to medical school, you can get an equivalent educational degree. Like in Fire Science, there's need for additional skills in dive, all other kinds of hydraulic equipment. There's other kinds of education yo can get. You take the equivalent, non-medical training which enhances the services to the citizens, because the services of the medical is very important medical service. There is other services provided by firefighter/paramedics. We proposed an exception that if you are not a certified paramedic you can get an A.S. degree in lieu of a paramedic degree.

Now, there is another thing about the need—the supposed need. We don't believe the need exists right now and will disappear, because you only hire paramedics. There is no need, and whatever need there is will disappear, but if there was a need, why wasn't this done before organization? Before the Union came on the scene?

It only came about after organization. If you were required—if there was a need here to have everybody be a paramedic, all officers to be a paramedic, then why do your rules currently have a lieutenant paramedic and a lieutenant EMT? There was no need for this, because it was never proposed by the Town at all except in collective bargaining negotiations. Most departments do not require paramedic as a requirement for promotion, and there are so few non-paramedics that, agreeing with the Town's proposal will punish a few select of EMT's that do not need to be punished, and we believe you should follow the recommendation of the Special Master and adopt the Union-firefighters proposal, and there is one more comment. The promotional process that we

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have agreed to has a rule of three.

Randolph:

Time, Mr. Mierzwa.

Mierzwa:

In other words, where there is a list, they can promote one, two, or three. If you have a medical need, you can skip the EMT and go down through the paramedics and promote. So you don't really need this requirement anyway.

Thank you.

Brooks:

Thank you, sir.

I tell you what, we really have been moving rather quickly and that's grateful.

We now come up to the 15 minute time period for wages which would put us pretty close to, I'm sorry?

Goldblum:

You didn't hear (the Town) on Article 17.

Brooks:

Which would take us pretty close to 11:15 at which time I will give a ten minute break. So, Matt, if you would like to proceed with the Union's position on Article 18, Wages.

7. Article 18, Wages

Mierzwa:

The wage issue here has three components, and it's on our tab 8, and the proposal from the firefighters has 1) a nine step plan - it's a 9 year step plan using 5% increments between steps that when it's implemented October 2003 that people be place in their range as if the step plan had always been in effect. You are slotted by your years of service, so slotting is the 2nd issue, and that you continue to receive the longevity pay as previously distributed to all Town employees.

What you will see on the first page is what we actually gave to the Town in negotiations that was updated through verbal changes in the proposal. The second page is the actual step plan. Now, I've been repeatedly provided statements regarding the Town's desire to have employees paid in the top quartile in the area from the Mayor, I think, and from Council and from the Town Manager. We've seen that in different places repeatedly--that we want to be in the top quartile and have highly paid

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people here. Well, that goal hasn't been met. Now, a 2000 survey by two of your paramedics showed that. Firefighters and paramedics here were underpaid. They weren't in the top quartile, and in fact if you looked at the analysis closely, were actually below 50%. We'll show you that. We showed that to the Town. We showed it to the Special Master, and we'll try to show it to you again today in the 15 minutes that we have.

Now, one thing, if you look on--there's a chart here, Schedule A. It's on page 3 of Wages. That was a survey done by the Town back in the year 2001 that showed the percentage pay in different classifications that people were short of -- that were underpaid. This is in 2001, and the survey remember was in response to the paramedics that showed your firefighters and paramedics to be underpaid. When this came about, you'll remember, this schedule, the Town at the time only implemented half of these increases. In other words, your survey showed them behind by these percentages, anywhere from 4 to 14.3%, but the ranges were moved that way, but the salaries were not. They were only moved 50% of that. So you hired--we showed you--two paramedics said, 'We're way behind in pay.' You did your own study and found to short of this, then you only gave them half of it.

So, that's back--if you remember--was in 2001 when the firefighters and paramedics were pleading with you to improve their lot, and when it wasn't being improved and this was happening, they went to Local 28 to get organized, because this was the kind of thing that was happening. This was in 2001. Now, if you look at the next page, it looks like this. You'll see that this is current. This is the first top--it's firefighter/paramedic maximum ranges. This is the maximum salary that each of the departments in Palm Beach County, the 9 departments. You see the Town of Palm Beach at \$62,500 is right in the middle.

So, first of all, you are not in the top quartile, you're in the middle with respect to maximum. Secondly, the ranges are just ranges. They don't represent where people are. If you look across, people with 8 to 9 years of service actually fit in between the Gardens and Riviera Beach. The actual salaries they are getting--by the way these are as of 9/30/03. That's where your people are fitting in. This is firefighter/paramedic. Now, you could say, 'How could that be?' This is the essence of the problem that you had with your pay for performance. Now, I understand--I have a private business and we don't have a step plan, and step plans are not something that are common in private business. The fact is that they are common in the public sector. They are common for firefighters and paramedics. They are common for police.

If you utilize a pay for performance system, and everybody else is utilizing a step plan, whether the step plan is right or not, your people are falling behind. Period. That's the way it is, and this demonstrates it. If you have an eight year firefighter in Palm Beach Gardens, he's making \$59,583. Well your eight year firefighter is not. You have two of them who aren't. This is after --Dave Kornreich said you have given them huge increases of up to 50%. Even after everything that you have done to improve pay, that's where they fall right now on September 30, 03, and that's because, we'll get into that, but these are true numbers, true salaries, true top outs, and those are left are the

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top outs in those departments and those are the actual people. Your people don't make what the top of the range is where as all those people in other departments do because they are on a step plan and automatically move there.

Now, in the interest of time, we have the same type of graphs, and really 15 minutes is not enough for this, but this is the same thing for firefighter/EMT; where you have more at \$48,000 is basically paid above Riviera Beach. These are people. These are actual people. A 14 year – I don't know the gentleman by name but he's 14 years and he fits in in the middle, and the same is true—we presented this at negotiations. We presented this at the Special Master, and we're trying to do it now. It's in the book. The same thing is true for all of the classes—driver/operator—and we're not here but the same thing is true for the lieutenants and captains.

So, if you turn those pages, there is – we support the step plan, and the theory behind the step plan is that the value of the job is the top step. That's the theory of the step plan. The actual value of the job is the top step. So, that's why you move there with satisfactory performance, and after 8 years or 9 years, you're at the top of it. You have gone through your learning curve. You are at the top of the scale. What the Town has done through its pay for performance, and I'm not saying it is wrong in general. I think it is wrong in this industry—firefighter/paramedic, because no one else uses it. The focus of the pay for performance for the Town for years, it that the value of the job is the midpoint of the job. Well, if everybody else values the job at the maximum in the area, and you're evaluating the job at the middle, that's how you get those numbers, because your people mountain out—bell curve out at the middle where in every other department, they are going for the top out. That's why your people fell behind, because you look at the midpoint as the value of the job, and Mr. Crouse testified at the Special Master, 'We look at the midpoint as the value of the job.' The trouble is that nobody else does, and it's not that he is wrong. It maybe an acceptable private sector concept. It's not what everybody is doing. Therefore, your people are being underpaid vis a vis other departments. That's why they came to you in the year 2000 which fell on deaf ears unfortunately. I don't know if the information wasn't conveyed properly. That's what came to you in 2000. That's what came to you in 2001, and that's what we brought to the Special Master. That's what we are bringing to you now.

Now, this is on the step issue. These are the areas of the department. You see 7 departments, Boca, Boynton, Lake Worth, Palm Beach County, Palm Beach Gardens, West Palm all have 5% increments. Delray still has a merit plan but the average increase is 4.6%. Riviera Beach has a 3% step plan. This is also in your booklet.

Now, you can say the Town Manager and Mr. Kornreich can say, 'We don't care what other people do.' I think you do care here, because you said you do. You want your people paid in the top quartile. They are not. Everybody else—you will, if you adopt the Town Manager's proposal, your step plan will be the worst in the County except Riviera Beach. If people are looking for jobs and actually were looking at the market, everybody makes more than the Town's proposal. Everybody's steps and merits are more than your 4% step plan. What that means is that every year someone who

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comes to work here is going to fall, just on steps, 1% behind a year, every year is going to fall behind. We've done our own survey and found that 89% of the firefighters and paramedics in Palm Beach County, regardless of the department, get 5% steps. We believe that is appropriate.

Now, if you don't do the 5% step plan, people are going to continue to fall behind, and they are behind as the first chart showed and this is going to continue to get worse, and you won't be fulfilling your goal of having people paid in the top quartile. They will be paid in the bottom quartile. You can study this all you want. We have gone through it. We have people who have studied this more than once, and have done it, and this data is about the most accurate you are going to get.

Now, the second issue has to do with slotting, and I have sort of alluded to some of the issues related to slotting. We want people slotted as if they have always been part of the step plan. Why? Because there can be no doubt, whether your pay for performance system is good in the private sector or was good, it wasn't good for the pay of your firefighters and paramedics. Why? Because the Town looked at the value for the job as the midpoint. If you do that, and everybody looks at the (inaudible) the value of the job is the maximum, your people fell behind through the pay for performance system. People who got 'satisfactory', 'exceeds normal' couldn't move off the midpoint in your pay plan. I think that has been recognized that was a problem, and I think there have been statements by Council and maybe the Mayor that said we held people back and kept them from being topped out. We're not going to do that any more.

Well, the problem is if you don't slot people by years of service, you permanently perpetuate what you had done by not letting people top out for the last ten years. You capped them at the midpoint; kept their salaries arbitrarily low. That's why we wanted them slotted by years of service so we can correct that problem.

Now, if you look at – I'll briefly mention longevity, but elimination of longevity combined with the methodology proposed by the Town for slotting, is a recipe for disaster. In your booklet, you'll see after there's a slotting—should be based on time and grade, there is a listing of all the employees in the department. Now, the Town's proposal for slotting goes as follows: take everybody's salary back to September 02. They lose their across the board. They lose their merit. They lose their across the board. That's what you give them. You slot them based on that. What's the problem with that? The problem is that they are going to lose pay. They are going to lose pay. Now, that sheet that I showed you, that's number one. Second, they'll lose their longevity, and if you will look at the sheet, like this, these are the actual pay—people will lose an average of \$4,000 per person up to \$7,000. At the hearing, we had a paramedic testify what they would lose under the Town's proposal, and it was \$4,000. We said this at the table, we've been updating these every 6 months for the Town at the table. We did it at the Special Master. We did it again for here. The Town Manager's proposal cuts pay by thousands of dollars. Why would you want to do that? Why would you want by slotting according to the Town Manager and eliminating longevity, why would you want thousands of dollars for pay? We didn't understand it at the table. We didn't understand it at the Special Master. We

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don't understand it today, and we've never been provided an explanation. Never. Look at this sheet. This is what the Town is proposing to do.

Randolph:
Time, Mr. Mierzwa.

Mierzwa:
The next page on the sheet is ours, and that's our proposal. You have more money budgeted for this fiscal year than we are proposing. We've actually proposed less than you budgeted for the current fiscal year, and we are asking that you adopt our proposal which was recommended by the Special Master.

Brooks:
Thank you, sir.

Applause.

Mr. Kornreich, if you would now address the Town's position on this matter.

Kornreich:
Obviously we have substantial disagreement with the method of presentation of Mr. Mierzwa with respect to wages. First of all, Mr. Mierzwa makes the argument that somehow the Town is going to go back and take money away from people for the years 2002, 2003. You're here today--anything you do goes forward. It doesn't go backwards. We are not going to go back to the last fiscal year and take anything away from anybody. It's that simple. Let's put an end to that. Having said that, the sliding system that the Town proposes, of course, is based on where the employee is presently and that employee would be slotted to the nearest step which is a 4% step. Then that employee would receive another step on his or her anniversary date. So, an employee could get most of one step to commence the year and then all of another step--almost 8% in that regard if they are low in the step program. If they are higher, they may get 6% on the step program, not 5% as the Union proposes. Additionally, what Mr. Mierzwa is leaving out, quite dramatically, is that you folks have already allocated to the firefighters and all other Town employees a 3% across the board wage adjustment. I didn't hear anything about the COLA that's already been factored in here which means at this point, the Town's proposal that is before you, the step plan that we reluctantly agreed to because the Union insisted on a step plan would yield something in the neighborhood of an average of 9.2% for the upcoming year. 9.2%. And that's a pretty dramatic increase. That is a pretty dramatic increase.

We can talk about facts and figures, but the point really is that our pay ranges are exceeding competitive. A paramedic-- firefighter/paramedic makes in the range of \$43,500 to something along the lines of \$65,000. That's what we pay. Driver/operators a little higher-- \$45,647 to \$67,000 if they are paramedics, and that's what we are hiring today as you well know, paramedics. We are

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competitive. We are in the top quartile.

Now, again what Mr. Mierzwa says is that he is concerned about how folks move through the ranges. So, he says, 'Well, you know, you might have a good minimum and you might have a good maximum and they may be very competitive, but our folks are not moving through the ranges, because something you did in the past through the pay for performance system hindered those people from moving through the ranges.' So, Mr. Mierzwa says the ranges themselves are illusory. Not so, not so at all.

Seventeen—did you hear the statement that people can't top out? They can't get to the top of the range, so the top of the range is illusory. Again, not true. Not so. Seventeen folks are at the top of the range. Several others will move to the top of the range shortly. We have roughly about a third that are already topped out although we keep hearing that nobody can get topped out, and we'll go to almost a half of them being topped out with the Town's proposal. So, that knocks holes in that entire argument. If the value is, as Mr. Mierzwa says, the top of the range, we are going to have a whole lot of folks at the top of the range under the Town's 4% step plan proposal.

Now, I said earlier that we reluctantly agreed to a step plan. This Town has operated on a pay for performance basis for 18 years. That is the proper way to go I believe; however, the Union made arguments that is something they do not and cannot live with. We did an about face. We worked through the numbers, and we tried to come up with a step plan. Our step plan, indeed is a 4% step plan vs. 5% step plan. Our step plan does not slot people into their years of service. Why? Because if we did so, those people who are underachievers, those few that are, would realize massive gains. They would catch up real quick. You would be talking about \$10,000 increases for folks who may not have prospered under the pay for performance plan, because they simply did not achieve as much as the others. They didn't do as well. They didn't get as big merit raises, so they are not as high. Now if you slot them in based on years of service, they may jump several steps. Several steps from where they are now and get very substantial raises. Philosophically, that is simply not good management and practically that is just not good management, and that's something that the Town does not want to do.

Again, 9.2% appears to be the average in what the Town proposes counting the 3% COLA increase which you have already awarded, and as I understand has already been provided. It's already been provided and appears in the checks.

We mentioned earlier the 50% or more over 10 years. You know, here again, here again, we have kind of a mis-statement. You know that 50% more is an average. That 50% more is an average. That includes those folks that were low achievers and those folks who are high achievers. The people who are high achievers got more than that. And the people who are low achievers may have only averaged 7% a year. Wow! That is terrible. In this day and age, that is terrible. No, it isn't. That is dramatically fair. We have others who average a lot more and those people move through the range, and they are at the top of the range. Wayne Lindros, Captain Lindros, for one has been a

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captain, and I know he's not in this bargaining unit, but it took him 9 years to get through the range. He is at the top of the range. Others are similarly situated. They got to the top of the range faster than what either of these proposals would achieve—either the Union's proposal or our proposal would achieve. It is simply not right to say, 'If you accept the premise that the top of the range is the value of the job' - a premise that is in dispute. As you know, in the private sector, the middle of the range is the proper value point of the job, but if you accept the Union's premise, we are still well on our way to getting most folks to the top of the range and shortly will have about half of them at the top of the range.

Longevity pay. Now, obviously what the Union did was they came to the table and said, 'Look, we want the COLA that you generously have given over the years. We want a step plan, and we want longevity pay. We want all guarantees. We don't want to put any of our money at risk. It's our money. We own it. We don't put it at risk. We are entitled to that money.' As we considered going to a step plan, and this is what negotiations are all about, we had to make some value judgements from management standpoint. If we are going to go to a step plan, is it proper from a management standpoint to guarantee all of these things? A COLA, a step, a longevity payment and I see people here saying, 'Uh huh, that's a great idea. That's a terrific idea. But that's just not the way it works in the real world.

Now, we sat down and we decided, 'Look, if we're going to give a step plan, if we're going to give a step plan, it should be a good, fair, and reasonable step plan, and we'll guarantee the COLA because really we have folks that are going to be topped out. Remember, that topped out business? That's a two edged sword. What happens to all the folks who are now going to be topped out? The thing that the Union wants, everybody getting to the maximum. What happens when they get to the maximum? Well you have a COLA. Right? And they get their 3% or up to 4% which you have awarded in the past. So, they are protected there. But, we have to recognize, if we are going to guarantee COLA and we're going to guarantee a step, we have to have some management discretion here and there cannot be any guarantee of a longevity program which is essentially a bonus. Now, I know we have come to learn that the longevity is an entitlement. People say, 'Well you know I count that as part of my pay.' The fact remains that it is a longevity bonus. It's a one shot payment that is made one time during the year, and longevity bonuses should not be an entitlement; particularly when the Union wants a step plan which in itself is a longevity plan. You move up, year by year by year by year. They can't have it all folks, and keep in mind that this is a base line negotiation. This is a negotiation that will be resolved here as is your duty. It will be resolved, and we will move forward and negotiate again. There are many of these issues that can be discussed down the road ad infinitum. Other alternatives, other ideas can be come up with in some point in time, but the fact remains they didn't like the pay for performance plan. The pay for performance plan, and I leave you with this, in the last two years, the pay for performance plan averaged, yielded to the employees in this bargaining unit, almost 6%, almost 6%. I would like to tell you that's higher, almost 1% higher, than any other employee group in the Town. Is that correct Mr. Crouse? (confirms) That's higher than any other. The Police Department for example may have yielded 5 or a little above 5, but this group made it almost to 6%.

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Now, why is that? Well, we don't know. There may be artificially inflated ratings. We don't know. Everybody is excellent. Everybody is superior. Nonetheless, and I think they are all good. Many of them are, but the fact remains that the program has been thwarted in this department, so a step plan seems like a way to go. That's why we went that way, and that's why we yielded to this request, but I think it is unfair to throw out these numbers that your halfway to here and in the lower quartile, and I even don't understand those. It's simply not true. These folks are doing pretty darn well. We recommend the Town Manager's proposal.

Brooks:

Thank you, Mr. Kornreich.

Ladies and gentlemen, we will take a ten minute break at this time. Thank you.

Ten Minute break

Brooks:

Ladies and gentlemen, if you could resume your seats, we will begin momentarily.

Thank you ladies and gentlemen, we're ready now to resume, and we're moving now to Article 25, Uniforms. Mr. Kornreich will represent the Town's position followed by Mr. Mierzwa with the Union's position.

Mr. Kornreich, please.

H. Article 25, Uniforms

Kornreich:

The next article before you for resolution is article 25 dealing with the uniforms. Article 25 dealing with the uniforms – this issue is rather easy to define. The Union wants to change the official uniform for the fire rescue service. The Union would like to go to what is called attack pants or cargo pants, and polo or golf style shirts. The Town currently has a more formal uniform. Fire resistant uniform, but a more formal uniform. The Union's argument as it has been throughout this proceeding is the Town of Palm Beach ought to do this because everyone else does it. Everyone does this, therefore the Town of Palm Beach should do it as well. You know, I've said this before, and I think it needs repeating, because everyone else does something doesn't make it right or appropriate for this Town. This Town is a little bit different. I think we should all agree on that. There are similarities between other places and this Town, but there are many, many differences. This Town insists on a very, very professional image, and fire management and Town management have decided that those uniforms project that image.

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Now, the Union makes arguments again that the uniforms make them look like a security guard and otherwise does not make them look professional. I find that hard to believe. I would certainly rely upon your good offices and your good judgement to decide that. After all, many of you see those folks a lot more than I do in uniform, but in any event, I think what is somewhat misleading here is that it's not like these folks only have these uniforms, these more professional, more formal uniforms. They do have other uniforms or other gear that they wear for cleanup purposes. There are rules and regulations, which by the way again appear in a comprehensive article which is before you, which indicates that these people can wear tee-shirts to do maintenance work, to do cleaning work. They can wear jump suits. They can dress otherwise other than these formal uniforms doing various and sundry chores. So again the notion that they have these uniforms, they have to sleep in them, they wear them around the clock is not really true. It is a little bit of an over statement.

But nonetheless, I think the principal principle issue is here that the Town fathers, the Town administration, the fire management has decided that these uniforms that are currently in use are appropriate for the Town of Palm Beach. They are professional. It makes them look professional. It has done so in the past and will do so for the foreseeable future. Now there may be a time in the future, and by the way, let me say this, the Union did make a presentation and did present some of these uniforms for review, and we did look at these alternative cargo pants in pictures and golf or polo shirts and we did view those items as well, and there may come a day when there will be some modification in uniforms down the road, but I emphasize again this is something that the Union really should not dictate. I think that we would consider it. We have considered in good faith. We have rejected it, and we think the current uniforms are more appropriate for the Town of Palm Beach, and we recommend that you approve continuation of those uniforms.

Brooks:

Thank you, sir.

Mr. Mierzwa, please.

Mierzwa:

Thank you.

There were other things involved again in this article. For example, a food allowance and some other matters that we actually dropped because the Special Master did not rule in our favor. What was left that he recommended that the Town Manager again rejected are polo shirts and attack pants. Now, the attack pants are EMS pants. There was no comment on the EMS pants from David Kornreich. What they are are pants with pockets where a medic can keep papers, scissors, tape, gloves. They have reinforced knees. Everybody wears those. All medics wear those except here. There we showed them, and nobody said they were unprofessional. They are medic pants. That's what EM medics are wearing now throughout the State and throughout Palm Beach County. That was never discussed. So that's one aspect of it, and frankly they actually aid service, and nobody

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when we showed them said that they looked unprofessional. In fact, the comments were: 'Oh, we didn't know that - that's what they looked like.' You can call them cargo pants or whatever. They are EMS medic pants where you can keep equipment that you need on scenes. Frankly, we don't understand why that would be opposed, and there was no opposition given today.

Now, the polo shirt issue is to get by the comparison issue. Let's go here. What we are asking for are polo shirts, and they are modern and they are functional and they are comfortable. The shirts that they presently wear, remember we're talking about rank and file, are those blue shirts. The Special Master agreed with us that in other departments, we are negotiating this all over the County, that those blue shirts with the buttons don't look professional. The polo shirts look much better than those; however, they are also very, very hot. They are uncomfortable. The officers' shirts have fabric contents that shouldn't be in there. They are unsafe. Polo shirts are going to be the rule of the day. Now, when we talk about professional image, you' see-it's in the book-but the shirts that we are wearing here, the blue shirts, are the same shirts worn on the Emergency TV series in the 1970's. You can't tell the difference. If you looked at the sheet we've got in the book, they are the same, and the Special Master laughed too. He said, 'You're wearing stuff from the 1970's - from television?' That's what we've got. There's no difference between it. It's 30 years old. It is a joke. I could understand a white shirt for an officer. These are not officers. We're dealing with the officers apparently in November, but these are firefighters, paramedics, and drivers. These are not professional looking.

The next picture, I'm sure you have it in the book and it is up here. This is from the Emergency series in the 70's. That's what we are wearing. At some point in time, you have to scratch your head and say, 'Is this really professional?' In fact, during the hearing, interestingly, by the way, Mr. Crouse is a fine man but he came to the negotiations when we negotiated on Fridays in a polo shirt. During the Special Master hearing in this room, Human Relations people were walking by in polo shirts. Some of your police officers, certain details, wear polo shirts.

Now, we had some of the polos from some of the departments- there's Riviera Beach-there's Boca Raton. You can see some of them have the safety collars on them for lighting. They are professional looking. Now, to say that looks unprofessional vis a vis the uniforms on Emergency TV series from the 70's just doesn't wash in our eyes, but more importantly, there is no cost in this issue at all. We just think they look more professional, but they are also functional and they are more comfortable. Remember we are out in the heart. I'm not. But the firefighters and paramedics are, and the common major reason for getting rid of them is the climate and the greater comfort in the polo shirts, and the Special Master ruled in our favor. We would ask you to do the same.

Brooks:

Thank you, sir.

Matt, if you want to stay up now, we are going to move to Article 33, Station Conditions and the Union representative will go first.

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I. Article 33, Station Conditions

Mierzwa:

If you will look at tab 10, when we proposed this, there are two sections that were at dispute, section 2 in our proposal which provided that in order to prevent the spread of infectious diseases between patients, employees, and members of the public, the Town shall provide decontamination facilities in each fire station where practical. Now, as this local has done elsewhere, we were the impetus to get contamination facilities in all three stations. We're the ones that pushed that. The Special Master actually rejected section 2 because the Town agreed at the hearing that they would finally do it. So, the Town has taken care of two, at least by budgeting, we want it in the contract anyway so that it was contractual. I don't really know why it took so long, but we were the impetus behind section 2 and the decontamination facilities.

Section 3 that's now at issue here because we--by the way, the Special Master rejected our position on section 2 and we accepted it like we did on everything else. When we lost, we stayed with them, and when we won, the Town rejected. In section 3, it says, 'The Town recognizes its obligation to insure healthy working conditions and station quarters,' and we have serious problems here. We have bad carpeting. We have AC duct problems. We have rat problems. We have leaks. We have a very serious problem in the station. I was taken in the station, and I looked up and there were red dots all over the ceiling where they eat, and I said, 'What are those?' They said, 'Those are rat traps.' 79 rat traps in station 1. That's where these people live. The answer was, 'We're doing all this. We're spending money to do it.'

Look. The firefighters and medics live there. They are living with rats. They sleep and hear the rats running through the walls. The rat traps are on the kitchen floors, on the counters, throughout the ceiling. When we showed these pictures, the Special Master called them an abomination, and they are. It's shameful. It needs to be fixed. The answer at the Special Master hearing from the Town on this issue from the facilities director was, 'Rats are a problem throughout the Town of Palm Beach.' I don't think that rats are running in the ceilings in the houses as you go down the street. I doubt that seriously. It can be solved. Rat problems can be solved. You shouldn't have your firefighters and paramedics living with rats and termites. There is actually a picture where a couple of firefighters actually built tents because they were waking up with termite droppings. They actually had tents above them when they were sleeping because they were waking up with termite droppings on them.

Now, we shouldn't have to be here on this. These problems should be taken care of and the answer that we got was the department of safety said it is not unsafe. 2) We're building a new station, and 3) everybody has rats. That's not acceptable. That's simply not acceptable. All we are asking here is for a proposal that the Town recognize its obligation to assure safe and healthy working conditions and quarters, and the Special Master recommended it be adopted, and we ask that you adopt it as well. It is a simple sentence recognizing the Town's obligation to take care of the problems. Every

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time this came up in negotiations, the Town said, mentioned an incident that happened with more rats caught in the Town at the table would say, 'We'll call the exterminator or have it re-evaluated or whatever.' It just goes on and on and on. At the hearing, we presented a large book of logs where catchings and all kinds of health problems, cleaning, ventilation, air ducts were all requested over and over again in the log to be corrected. Sheets and sheets and stacks of paper. It's just not right. The Town needs to take care of this problem, and we propose to take care of it by putting that language in the contract.

Thanks.

Brooks:

Thank you, sir.

Mr. Kornreich, please.

Kornreich:

I think this rat problem has been well publicized and I think it is well to understand the answer to the rat problem is right across the street. An expenditure of something more than \$3 million to build a new fire station. Now, Mr. Mierzwa says that is not adequate. Well, the fact is that the last time I checked the Town has also spent something like \$10,000 or \$11,000 on exterminators and other inspections to control the problem. There is no question that the problem should be fought and fought vigorously, and it has been so far. We have expert after expert come in and take a look at the problem. The Health Department has been here, and the Health Department has indicated and I can read this to you, the recommendations:

July 21, 2003 - investigation conducted. No evidence of rodents observed at the time. Conducted investigation of garbage room in back on ground level. Strong odors detected in garbage bags not properly contained in containers with secured lids.

Now, who is responsible for that? The employees themselves. The employees who live there. The recommendation from the Florida Department of Health: keep kitchen area clean of food debris including cabinets, floors, counters and sink. Garbage should be stored in leak proof, non-absorbent containers that shall be kept covered with tight fitting lids. Continue to monitor and work with a licensed exterminator which we continue to do. That has never stopped. There is a vigorous defense going on, as we speak, to the rat problem. Maybe it is a terrible problems, and those of us who have confronted it in properties that we have lived in or owned or been associated with, and I have had some situations with my own family in small apartment buildings and we know that sometimes these problems are almost insurmountable. But the Town is proceeding extremely vigorously, and I say the best evidence is that these folks are going to have a new station which they need and you have approved.

Now, having said that, what is this dispute all about? Again, Mr. Mierzwa is correct here that we

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have reached an agreement on decontamination centers or stations. Those are in place or are budgeted for and will be underway, and that is no longer an issue. The problem is the specific language. Here again, we are talking about language, and what Mr. Mierzwa and the Union want really is for us to agree to language that in essence says that the Town is solely responsible for the health and safety conditions. You know, we have no problem being responsible, but as you can see here from the Health Department report, it is very, very clear that others, members of the bargaining unit themselves and perhaps through negligence or inadvertence, are not keeping up their end of the bargain. They are not keeping their quarters clean, and they should be equally as responsible, and until we have language that says both parties are going to work cooperatively toward health and safety conditions, we feel strongly that we should not have a unilateral prescription that says only the Town will be responsible. Therefore, we reject that contention. I would like to make this very clear, and I don't want to embarrass anyone who may be in this room, but I have in my possession a letter which I don't think anyone would deny from an officer, a member of the bargaining unit, who has indicated to the command level folks, to the fire chief and the assistant fire chief of operations that he fully recognizes the Town is making a good faith effort to cure things, and that his comrades better work, collectively, to fix things on their end as well. We have a letter to that effect, and I think the Union folks have probably seen that letter as well. So, again a cooperative issue—the Town is doing more than its part. We hope the new fire station—I'm sure we all hope it will go on line as quickly as possible, and this will be a moot issue. As far as the language unilaterally imposing an obligation on the Town but not a cooperative obligation on the employees, we feel strongly that should be rejected.

Thank you.

Brooks:

Thank you, sir.

Mr. Kornreich, you might as well stay there as we move to Article 39, Sick Leave and Injury Time. You will go first followed by Mr. Mierzwa.

J. Article 39, Sick Leave and Injury Time

Kornreich:

Now, in the past couple of years, we've had a situation where the use of sick leave has spiked. It's gone up, and for whatever reason this is, we are not entirely sure, but the Town proposed with the use of sick leave which some folks regard as a benefit, but, you know, others regard as an insurance policy—those of us who have not had sick leave would like to have paid sick leave, but it is not really an entitlement program. It is a benefit. It is something to be used as an insurance policy when you are sick. At times, sick leave does get abused. I mean, it does get abused. What the Town has proposed is that there be a system of penalties, and they are fairly lenient penalties in an effort to thwart the abuse of sick leave, and those are in your handout and I think attached to the Town

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Manager's report and recommendation, and they indicate that for a 4th occurrence, now mind you that these folks get 4 shifts, as I understand it, per year for sick leave, but for a 4th occurrence, and an occurrence is not necessarily one shift. I mean, if one is ill for multiple shifts, it is only one occurrence. An occurrence is something arising out of one illness or injury. So, we are not counting each and every day, if you sick and have a prolonged ailment. It would only be one occurrence, but for the 4th occurrence, one would lose his or her ability to exchange shifts. Something that is important to firefighters, but it is not taking away money from them directly. It is inconveniencing them. It is getting their attention if there is an abuse situation. A 5th occurrence would limit ones ability to work overtime which again is not an entitlement. Wouldn't take away direct pay, but would take away the ability to work extra. After all, if you can't get there and do the job, you shouldn't be working extra time as well, and on and on.

6th occurrence, 7th occurrence, by the time we get to the last, there is counseling involved under the employee assistance program. We think these penalties are rather minimal. What has happened by the way, and not everybody abuses sick leave, and not even nearly anybody abuses sick leave. There is an average sick leave usage, I believe, of about 2 and a fraction shifts or occurrences, and perhaps there are some that exceed that considerably, and there are some of these good folks that take no sick leave at all. Again, this is only going to hurt those people that abuse, and even then, it is not a very severe penalty. We recommend that you adopt the Town Manager's recommendation with regard to the sick leave disincentives.

Brooks:

Thank you, sir.

Mr. Mierzwa, please.

Mierzwa:

On tab 11, basically we have just the current sick leave policy. Our proposal here at Special Master was just to maintain the status quo on sick leave, whatever the current policy is. Now, again to try to show you what happened here, was that the Town never made any proposal like this in the beginning. What happened was the firefighters gave the Town a comprehensive wellness program of all aspects of wellness including full reimbursement of unused sick time, short term disability plan, a long term disability plan, a fitness program, fitness testing program, and part incentives for non-use of sick leave and part of that multi-faceted program were disincentives. Now, that program came from Palm Beach County which has a very innovative wellness program, and a small part of that program was the disincentive program. What the Town did was to reject everything with respect to the full complement of the wellness program, picked out the disincentive and gave it back to us.

It is difficult to explain what happened in negotiations, unless you could understand this concept. A multi-faceted, must have been 15 page wellness program covering all types of issues, physical fitness training, wellness testing, all kinds of things, and they rejected it all and then gave back to us a sick leave disincentive. You might want to wonder now why we want the preamble. The fact of the

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matter is that, other than Palm Beach County which has this comprehensive wellness program, nobody has sick leave disincentives.

Furthermore, Assistant Chief DeLorio testified at the Special Master's meeting that there is no sick leave abuse problem. He testified to that. That was his testimony at the Special Master. We don't know how the spike happened and the occasional abuse happened today, but we have never seen any evidence of it nor have we were we informed of it. That is contrary to the position taken.

Furthermore in the context of which they proposed it, we believe it violates the law. You are going to punish people for using sick leave. The Family Medical Leave Act prohibits that if it is a serious illness. So, the context in which it is proposed and intended to be applied would violate the law. The Special Master recommended against it, because they are not needed, based on the Town's testimony. There is no abuse problem. Nobody does it that way, and frankly all we can tell from this – the Town's proposal – is that it was just one of those things. We're in our first contract so we're going to throw some garbage at you.

A sick leave disincentive—there's no rationale for it whatsoever at any time. Frankly, we find proposals like this offensive, because it wasn't in the Town's package. It was pulled out of our package and sent back to us leaving out the rest of the package. We're asking you just to maintain the status quo on sick leave, which is the recommendation of the Special Master.

Thank you.

Brooks:

Thank you, Mr. Mierzwa.

We'll move to Article 40, Shift and Station Assignments, and you're up first, Matt.

A. Article 40, Shift and Station Assignments

Mierzwa:

Interesting enough, when your paramedics and firefighters did their own survey and collected their own data, their most important issue was: a bid policy for shift and station assignments or you can bid where you can work. That was surprising to me that would be on the top of the list above anything else. What that demonstrates – demonstrates to me and to demonstrate to you is that employees feel that they are not treated properly with respect to shift and station assignments. Shift and station assignments, especially shift assignments, can be critical, because if you are moved off a shift, it affects your whole life because we work 24 on and 48 off. It can affect your whole scheduling in life. Now, that's why they came with a bid proposal, in addition not on an individual basis, but there are occurrences where everybody in the department was simply shifted and moved, and it caused morale problems. That was the kind of problem that was existing in 2000 and before

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that was not being corrected—that your firefighters and paramedics did not believe that they were being treated fairly. This may be difficult to understand. It was difficult for me to understand, because I am not a firefighter and I do not do shift work, but it is an important issue, and the firefighters wanted a full bid policy to prevent the wholesale random transfer as has occurred in the past.

Now, the Town's proposal was basically we want to do whatever we want. You know, whatever we think is in the best interest of the Town. That's what we are going to do, which is a typical management response. It's not unusual, and I can understand the difference. I'll say the firefighters want a bid policy restricting management's discretion, and management wanting to do whatever they wanted in their eyes for the best of the citizens. The problem is that doesn't deal with the random transfers that were happening. Now, again we lost this issue in the Special Master. If you look in tab 12, there's page 3 of Special Masters decision, we lost it, and he sided with the Town which is okay, and again we accepted it like we did in every other one we lost on. We didn't win them all. Remember, in the beginning we lost a lot of issues. I shouldn't be saying that in front of my client. We lost issues. We lost 30-40% of the issues, but we accepted all those we lost including this one. We said, 'Okay, it's the first contract. We lost it. Let's get an acceptance of everything and get a contract.'

Now, the one thing the Special Master did was added a single sentence to the Town's proposal with respect to requests for shift changes, that such authorization shall not be unreasonably withheld. In other words, the entire Special Master's decision said, 'We reject the firefighters proposal. I accept the Town's. Just put this one sentence in.' Again this is just another example of what happened, in our view, throughout the negotiations and clearly what happened with the Special Master's decision, when we lost a decision, we accepted it. When the Town was asked to put a single sentence in their proposal, they rejected it.

You can go back to why we are insisting on the preamble at this late date, and we would ask you to adopt the Special Master's recommendation which is the Town's proposal with a single sentence, those words.

Thank you.

Brooks:

Thank you, sir. Mr. Kornreich, if you would address Article 40, Shift and Station Assignments please.

Kornreich:

You know, perhaps I have been in error, and that I didn't reserve time on some of the other proposals, but I know Mr. Mierzwa has gone back very briefly on previous proposals and commented on them, and I would like to with the Council's permission and the President's

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permission simply address one item on the sick leave issue which we previously discussed.

Brooks:

Yes, sir. Go ahead.

Kornreich:

Mr. Mierzwa said the Town merely took the penalties. They made a proposal, and the Town merely took the penalties out of a comprehensive proposal that they made and rejected everything else, and that is simply not true. The Town adopted from the Palm Beach County proposal, which it was, it was modeled on Palm Beach County, a physical fitness program to go along with that amendment to the sick leave policy. That program would have incentives as well as disincentives, and that program was upheld by the Special Master. Now, in so doing, let me tell you what we did. We sent Chief DeIorio over to Palm Beach County and Mr. Mayo, the President of the Union, was a very gracious host, and we put Chief DeIorio through the County's program, and after we did that, we said, 'Look, we can adopt something like the County's physical fitness program.' Indeed, that is what they were proposing, and that's what we accepted. The only difference is that we said we would try to do that program here in the Town of Palm Beach rather than have to run across the lake to do that. But, I think that is in error, and I don't want you to be misled to say all we took was – we cherry picked – and we took the penalties. We took the physical fitness program, for better or for worse.

Now, let's go to shift and station assignments.

Once again, here we have a few words. We have an article that's been agreed to and as Mr. Mierzwa properly pointed out, we disagree on a few words. But again, as Mr. Mierzwa states, let's talk about a little history. Whatever happened in 2001 perhaps is ancient history since DeIorio told me that there were some personnel changes, many of those related to promotions, or as a result of promotions to where people had to move around to be balanced, to balance out shifts and stations, and as you know, you have to have a balance of skills in these stations. You also, in some cases, have to have a balance of experience. You can't have all brand new people right out of the box in one particular station and nobody to supervise them or no more senior people and on and on. There are many reasons why you have to station people in places and that is why management is there. That is their job, but what has happened here is at the beginning of negotiations and on throughout negotiations, we said to the Union, 'Look, we are not for a bid system. We're not going to post bids to where everybody can bid for a particular shift and bid for a particular station. We'll play musical chairs and people will run around and change; however, if you would be kind enough and tell us who wants to transfer from shift to a different shift or station to a different station, we will sincerely consider those.' Chief De Iorio was the one who stated that.

Well, before we get too much laughter, let me explain what happened. Captain Lindros advised us that he created a web site – is that correct, Chief? – and he invited people to express their opinions as to where they wanted to go and what station they wanted to go and what shift. Where do you want

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to transfer and where do you want to go? We asked Captain Lindros and he was very cooperative, very, very cooperative, at various negotiations sessions, 'Please tell us who these people are that want to transfer to a different station.' The answer we got was none-nobody. Captain Lindros apologized and said, 'Nobody has signed on.'

You know, with that in mind, we saw no reason for doing this, and we see no reason for using the language unreasonably withheld, because there is simply no reason for management not to have the discretion as the facts have shown We recommend that you accept the Town Manager's proposal.

Brooks:

Thank you, sir.

C. Comments from the Public

We have now gone through the 11 articles under discussion this morning and it's time now to move to comments from the public.

Matt, would you be able to pull that placard off the – if you can reach it here– thank you.

I would ask that anyone who wishes to speak can line up on both sides of the hall, and the microphones, as you know, are equi-distant, and if you would give your name and address for the Town Clerk for the record as is this is a public meeting, I'd be grateful. I would like to remind you what I said this morning that the 2 minutes cannot be shared, it is a cumulative 2 minutes, and that the Chair will reserve the right if it deems that statements are repetitive. So, with that, can we please have the first speaker?

1st speaker:

Good morning, my name is Harriet Hogan. I live at 225 LaPuerta Way in Palm Beach. First off, I would like to address my remarks to the Honorable Mayor and the Honorable Council people and honorable guests. I am taking vacation from my Palm Beach County job to encourage the Town of Palm Beach to find a way to compromise with the firefighters and paramedics. I am truly chagrined by this situation, especially by the tee-shirts saying this is the worst place to work. There is no way I could not come and stand up for the firefighters and paramedics after the excellent service they have given me and my late husband, Turner Hogan, on enumerable occasions over the 35 years that we have lived here. Many times that they assured me that the wiring in my little beach house was not on fire. The night my husband died, the firefighters got my lawyer to the house. They called my children in. They found a funeral director on Passover night which is not an easy thing to do, and they went far beyond the call of duty. The next day, on their own time, they came back with my breakfast and they went on their own time with me to the funeral home to help me and make sure

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that the children and I were well taken care of. Disgruntled workers do not go far beyond the call of duty despite your young Mr. Elwell - his remarks. They do the minimum if they do that. The Town by rejecting almost totally the Special Master's proposals is encouraging low morale among the firefighters. It is almost as if you are saying, 'It's our way or the highway.' Make no mistake about it, we will lose these young people. They will look for jobs elsewhere, and maybe they have already started to do so. It is my understanding that in the recent last hiring for firefighters, job applications to Palm Beach County numbered 1,100 as opposed to 60 for the Town of Palm Beach.

Randolph:
Time.

Brooks:
Thank you, Mrs. Hogan. Next, please.

2nd speaker:
Good afternoon. My name is Stephanie Van Helmont. I reside at 1320 N. Lake Way. I would like to express my thanks to these firefighters, ladies and gentlemen. My two daughters go to the Palm Beach Day School. The firefighters have already been there several times just his semester. Thank you again for your help there in many situations. They have been to my house, and I have only been a resident here maybe a year. I agree with the first woman who spoke and in your consideration, please, they take care of us, not our buildings, but they take care of our lives.

Thank you.

Brooks:
Are there any other speakers?

3rd speaker:
Wendy Victor, 208 Via Tortuga. I am a great supporter of the Town, as you know, and support Peter Elwell, the job that he is doing which I feel head and shoulders above the kind of management that we had before. I sit in on many Town Council meetings, and I feel that you are wise and deliberate well. Many of the issues today I don't have a full grasp on, and I know many are political, and I am not going to comment on those. The one thing I do feel I understand are the station conditions, and I feel that they are appalling. I am pleased to be a member of the Landmarks Commission that helped make the new station a reality, but to have these people spending night after night for the next number of months with what I see going on, I just don't feel we could allow. Things happen because people are in a place to make it happen, and I would ask you, Mr. Brooks, if you would be willing, because I am willing, to spend one night at the station with the Chief's...

Brooks:
Not together, Mrs. Victor.

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Victor:

Under supervision...to experience for one night what these people are going through, and if it is as bad as it looks, to bring what we can do to bear on changing the situation right away.

Brooks:

Yes, sir.

4th Speaker:

Hi, my name is Peter McGrain. I'm a resident of North Palm Beach, firefighter for Palm Beach County. I'd like to take that lady up on her offer.

Absolutely.

It's very confusing here. My head is spinning. There is so much information. Our man is saying that you are the lowest quarter of pay. Your man is saying you are in the highest quarter. Our man is saying step pay. Your man is saying merit raise. Our man is saying just cause. Your man is saying arbitrator. It's a lot of issues. There's a lot of things to vote on. I would ask you this: if you want to send a message to your firefighters and paramedics that you value their services and appreciate their efforts, you should vote for the contract they want. If you want to send a message to the residents of the Town of Palm Beach that you value their safety, you should vote for the contract they want. I would hate to find out that this is an argument over rats and tee-shirts. So, please do the right thing. If you are confused about an issue, get more information. If you are still confused about an issue, just do what everybody else does and vote the standard of the fire departments across the County, and you'll find out that you are voting for the contract.

Thank you.

Brooks:

Thank you, sir.

5th Speaker:

My name is Alan Albritton. I have been a firefighter for the Town for 25+ years. I don't really have—Mr. Mierzwa said what I believe to a correct—giving you correct information. The one thing that I do want to make very clear to you is that I am in the last year and a half of my service to this Town. I have graded in the 'exceeds and outstanding' categories in this Town, I believe, for over the last 10 years. I will lose \$7,300 of my pay if you cut my longevity, and I will never make it up. There are many people in this room who are in the last years of their service to this Town. Many of them have graded very high under your system in the past. You will take—I'm one of the highest. I'm not the highest, but I am one of the highest. Like they said on the average, \$4,400 a year, you're going to take \$7,300 a year from me. Why? I don't understand it. Thank you.

Brooks:

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Thank you, sir.

Yes, sir.

6th speaker:

Madame Mayor, Town Council, Citizens of Palm Beach, and fellow firefighters and paramedics. I do thank you all for coming. My name is Wayne Lindros. I am a Captain/Paramedic with Palm Beach Fire-Rescue. I have been here 23 years which is exactly half of my life in serving here. I would like to really consider seriously the consequences of the decisions you are about to make today. The fallacies of the pay for performance system that we have endured since 1986 have been clearly demonstrated here we believe. The claim that step plans and longevity pay are one and the same thing and are not meant to complement each other is also false. In fact, before 1986, that is exactly the system we had here. Many of the recent retirees, just like Alan said, have left the Town's employee with pensions substantially lower than their counterparts because of this system. Future retirees will suffer life time losses in the hundreds of thousands of dollars if longevity pay is eliminated.

The Town has been privileged to set aside a rainy day fund in excess of \$16 million. 4/10 of 1% of that fund would cover the pay increase that we ask for. For firefighters, today is the rainy day. However, pay wasn't the only issue that got us to the table here today. Many other issues have still not been addressed even at the negotiating table purely for lack of truly concerned (inaudible). The language we are asking you to consider is honestly language that reasonable people should agree upon out of mutual respect. I believe the ruling of the Special Master, a ruling against the Special Master recommendations and ruling against the firefighters and paramedics will cause further deterioration of our morale and will provoke many to consider employment else where. In fact, I know that several are already considering that. We've already lost a couple, probably 3 within the last 18 months because of it. Many of the most experienced will be forced to retire early to avoid lower pensions, because if you cut our salaries, our pensions will be based on lower salaries. What I believe really hits the firefighters who have dutifully served the Town will divide the Town. The residents are here supporting us. I think it is really going to be a division for the Town. I wonder whether the supporters here tonight are going to sleep as peacefully as they did last night.

Randolph:
Time.

Brooks:
Thank you.

Next speaker please.

7th Speaker:

Yes, my name is Jeffery Moore. I live in W. Palm Beach, 214 10th Street. I have been an employee

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of the Town for 10 years now. I'm coming up on my vesting, so this is a crucial decision for me here. Just to give you an idea where I come from what I'm about, I'll tell you I had my general contracting license when I was 20. I did that for quite a few years. I was in the military, in a supervisory position, crash fire rescue. I came to the Town in hopes of promoting and becoming something. I am the poster guy. I'm paid like Riviera Beach, so if that makes you feel better, here it is.

Thank you.

Brooks:

Thank you, sir.

Next speaker please.

Hearing and seeing no one then, I'll move to the closing statements

D. Closing Statements

The closing statements, ladies and gentlemen, will be 10 minutes in length. It is my understanding that Mr. Kornreich will go first, followed by Mr. Mierzwa.

Kornreich:

We all agree that the firefighters, the folks here in this room and the bargaining units have done a very, very good job, and they will continue to do a very good job. We have an honest difference of opinion on some issues. These issues, we have made recommendations to resolve those issues and I emphasize to you, again, your resolution of those issues will be a baseline for continued negotiations. They will create a status quo agreement of our status quo situation from which we will negotiate in the future, and the future is anytime from now on. With that in mind, we urge you to accept the Town Manager's recommendations in their entirety. Now, we have heard people say, 'I'm going to lose this amount of money and I'm going to lose that amount of money.' Indeed some of them may lose. That money, again, these folks wanted a pay system that was not the Town's pay system. They wanted to negotiate a pay system, and we did negotiate a system and come as close as possible to the system they wanted. They don't like an element of that system that we proposed which is the elimination of the longevity bonus, and again that was their position. However, our system is a very, very strong system – a very fair system and will result in major increases and will result in them getting to the top of the range, and they will not have this pay for performance system which they apparently don't like anymore. Now, that's what they wanted. They wanted to eliminate that system. At some time in the future, they may find that is a better system, and they may attempt to negotiate modifications in that system and go back to that system. That will be their choice. That is what on-going negotiations are about.

As far as the many, many other issues that we have discussed here today, they largely come down

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to management's ability to run the department in a safe, fair, and efficient manner. They don't seem like major issues, but in many cases they are issues that involve the Special Master making some recommendations which would tie fire management's hands which would tell fire management how to allocate its personnel and how to run the department, and this we can ill afford. We need the maximum amount of flexibility in running the department and providing the services to the public. This is what the Town has always done – provided excellent services, and I am sure this is what the Town will do in the future. Keep in mind when we hear these notions that the Town is behind and we are going to lose money, we have in the past few years taken salary studies, done salary studies to find out exactly where the Town is. Those studies will continue in the future if we are allowed to do so via negotiations. The Town, and I state it here and now, is committed to its goal of being in the top quartile. No matter what occurs here, that will continue to take place in the future. If the Union allows us, we will continue to do those salary studies, and we'll negotiate from those studies, but the Town Manager is completely committed, completely committed, to maintaining that top quartile position, and I would certainly recommend to you all as we go down the road, that you be committed to that, and I think you are.

We would certainly recommend that the Town Manager's proposal and recommendation be approved in its entirety.

Thank you.

Brooks:

Thank you, Mr. Kornreich.

Mr. Mierzwa, please, you will have the closing statement.

Mierzwa:

I have some comments along the way of certain issues that I would like to address. One had to do with the safety issue that David Kornreich talked about. At the Special Master setting and today, we just can't understand how the rat problem can be blamed not wiping the counters, and the firefighters not cleaning up after themselves. I hear this for the third time. It's offensive.

Also, we have a pole – there was a pole in the picture—a fire pole that is needed in this type of tight station. It's out of service. It's been out of service. It's not being fixed for two years. Are we supposed to repair that? I don't understand, when is that going to be done? A/C ducts uncleaned. Are we supposed to do that? Well, put it in our job descriptions I guess. Wipe the counters is the answer. Don't understand.

Physical fitness – we talked about – we presented our wellness program – I talked about, and I said that the Town cherry picked and only picked a sick leave disincentive. That's what happened. David Kornreich came back on that same issue and said, 'That's not true. We adopted their physical fitness program.' Well, they didn't. They took the physical fitness test that Chief DeIorio did and

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said, 'We'll do that.' Except he left something off. The County's physical fitness program when you flunk it, doesn't provide for termination. The Town's does. So what the Town did was say, 'Yeah, we'll take your physical fitness program. Okay.' He said, 'We didn't cherry pick. We gave them their physical fitness program.' Yeah. They took the physical fitness program and said, 'You're terminated when you fail it.' I'm glad he mentioned that, because that's another example of frankly the garbage that we faced in negotiations. That's exactly what they did. They picked out our physical fitness program that Mike Mayo allowed them to take and what they did with it was pick the program and said, 'You're terminated if you fail it.' This is what you are creating here—you wonder why you have a morale problem? Wipe the counters down.

The salary studies you have been doing through the years, David Kornreich said we will continue the salary studies. The problem with your salary studies is that they focus on the midpoint. It put people at the midpoint. It created a bell curve that people coagulated around the midpoint. Nobody else does that. Your salary studies, the way you conducted them focusing on a midpoint, put people behind. Put Jeff Moore in the position he's in. Put other people at 14 years not topping out. That's what you did, and the comment today is we'll continue to do those studies. When you did a study and they said you are behind, you only gave them half of it. This facade of the top quartile, I pray that you look at this data. I pray that you look at the data and find out once and for all it's a scam. That data was called mis-statement about where people slot. Well, we did it every 6 months in negotiations and gave it to them at Special Master and here. And it's just called, 'That's a mis-statement.' That's the response. Where's their data? Where is their data? We keep getting these statements. Where is the data? We haven't seen any data from them. Nothing. Did you see anything that shows you are in the top quartile? Nothing. We showed you names of people and top outs. We showed it to you. It is not a mis-statement. We've done it repeatedly, and we get no response.

The statement that the Town is out to maintain people, your firefighters in the top quartile, is false because you are not in the top quartile. They can repeat that over and over and over again. It is simply not true. That's why you have a problem. That's why your people organized. This was the easiest organizing effort I've ever heard of. Everybody came with a 100% card and said, 'Please take us in to your local.' That was the organizing. All unions would like to have that. Everybody came to the local and said please organize us—something like 90% cards, and when the secret ballot happened, it was 47 to nothing. You have to understand something is wrong here. It's getting worse and worse. They – 47 to nothing voted for representation. We brought to the table what they wanted, and your answer from your Town Manager is to cut the pay by thousands of dollars, because David Kornreich snidely says today, 'You got your pay plan. It's just not the one you wanted.' It's the worst one in the County. It's better than Riviera Beach. Sorry. It is the second worse in the County. How does your statement that you are supposed to be a top quartile and Elwell's statement that you are supposed to be a top quartile—how does that fit in putting you in the second worse step plan in the County? Something is wrong here. Somebody is not telling the truth. You saw that almost everybody has a 5% step plan. How does a 4% step plan put you in the top quartile? Something is wrong here, and we listened to this for 18 months at the table.

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Some last comments on statements that were made—pay cuts. David Kornreich said nobody is getting a pay cut. It is simply not true that nobody is getting a pay cut. You are not taking money out of people's pockets because that is illegal, but clearly their salaries that exist now are being reduced by the Town Manager's proposal. We had a person, Liz Nowacki, testify exactly what the Town Manager's proposal would do—take away her merit, move her back, and give her a step or whatever you gave her. She lost pay. The Special Master said, 'Is that true?' and they said, 'Yes'. Your proposal with longevity will take \$4,000 or so off of her pay as of this December. Now, I don't know if you know this, if you – what's really bothersome to the firefighters was they asked me, 'How could this happen?' I said, 'The Town Council sends out, under the law, under your Code, you are supposed to send them out to negotiate your wishes.' I'm just wondering, something is wrong. Did you send them out to cut the pay? You need to express that in your decision making today. Did you send them out, speak with David Kornreich, and the Town Manager and say, 'Go cut their pay. Teach them a lesson?'

Well, if you did that, then hopefully we can change your mind. If you didn't do it, then you've got to figure, 'How did this get on the table? How did we get in this mess?' Either they are following your wishes and you need to change your mind, or they are not following your wishes.

Now, there's another comment made about—David Kornreich said, 'COLAS, step increases, and longevity is not the way it works.' Quote: 'Is not the way it works.' It may be in the real world. It may not be the way it works in the public sector, and I've said this in Palm Beach Gardens two years ago when I negotiated and said, 'If you keep your small merit pay, you won't have anybody working here.' They adopted the County's pay plan, because they couldn't get anybody to work. They adopted lock, stock, and barrel the County's pay plan and slotted them as if they were always in it. Why? Because they couldn't get anybody, and it is going to come here shortly.

Now, about COLAS, steps, and longevity, I understand—I always say I don't give my employees COLAS, steps, and longevity, and it's not the way of the world in the public sector. For better or worse, – private sector – it is the way of the world in the public sector. That's what's going on and sooner or later you're not going to be able to get people. Now, I urge you to look at the numbers and consider these numbers. You need to make a choice here. I understand that you are not happy with the firefighters organizing. It's been expressed, even if it's not expressed. I understand that, but you need to deal with this problem today, because you are going to have—this problem went from 1999 to 2000 when they tried to do it themselves to 2001, two years of negotiations, now we have a Special Masters decision that has been rejected with respect to everything favorable to the firefighters.

You need to make some hard choices here, and the second from the last comment—I've told Mike Mayo to propose to split a full page ad in the Post and your Shiny Sheet –

Randolph:
Time.

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Mierzwa:

—publicizing the pay rates. If you run that ad continuously, you will not get firefighters and paramedics. No Longevity. Well, that put his — Town Manager's — Elwell's proposal. Put it in the paper. See if you get any paramedics here to come to work.

Lastly, Wayne Lindros said he got choked up and couldn't finish the last comment, and I think it is appropriate. I urge you to open your eyes, open your ears, open your hearts and listen to what your firefighters and paramedics are trying to tell you.

He thanks you and I thank you.

Applause

Brooks:

Thank you, Mr. Mierzwa.

E. Deliberation by Mayor and Town Council

Brooks:

Now, Madam Mayor and gentlemen, if the Council deems it appropriate to approve in full, either the recommendations that the Town has incorporated and Mr. Elwell's letter of September 26th as amended on October 14, 2003, by deleting Article 14 or by approving in full the recommendations of the professional firefighters/paramedics, Local 2928, as set forth in Mr. Mierzwa's letter of October 15, 2003, the chair will entertain a motion to do one or the other or alternatively we can deal with the articles, one by one. What be your pleasusre?

Goldblum:

I'll make a motion that we do it totally, one vote.

Brooks:

Okay. We have a motion to approve it with one vote. Is there a second?

McDonald:

I'll second.

Brooks:

There is a second. Mrs. Pollitt, would you call the—I'm calling the question. Would you take the roll please?

Goldblum:

Yes.

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McDonald:
Yes.

McLendon:
No.

Wyett:
No.

Brooks:
Yes.

Passes 3-2.

Okay we have a motion, and now what is your pleasure on the articles? On the issue, pardon me?
Mr. Wyett.

Wyett:
The motion?

Brooks:
We just carried the motion. Are you making a motion to support the Town's position or the —?

Wyett:
No. I am not making the motion.

Brooks:
Oh, I thought you just— pardon?

McLendon:
I don't follow you.

Wyett:
I don't follow you.

Brooks:
Well, we've made a motion that has passed that we will have one vote to cover all articles. Now I'm asking what is the motion?

McLendon:
Okay. I thought you were voting on A or B.

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Brooks:

No.

Randolph:

Let me, if I might. You have before you two letters from each of the attorneys which incorporate the positions of each, and I think, for the record, we should make clear what is before you for deliberation. You have a letter dated October 15, 2003, from Mr. Mierzwa which sets forth his position on behalf of his client in regard to each of the articles that have been discussed here today. In addition, you have before you a letter of September 26, 2003, from Peter Elwell which sets forth the position of the Town's management and negotiations team in regard to each of these articles. That particular letter was amended pursuant to a letter of October 14th which deleted Article 14. So, on the basis of the vote that was just made, an appropriate motion would be to either support the recommendations contained within the letter of October 15th from Mr. Mierzwa in regard to each of these articles, or to support the recommendations set forth in the letter from Mr. Elwell dated September 26th in regard to each of these recommendations. That's on the basis of the vote that you took that you were going to deal with them as a total as opposed to each article.

Brooks:

Thank you, Mr. Randolph, and I trust that clarifies the situation for you, Mr. Wyett.

Wyett:

It clarifies it, but I was a negative vote on doing it unanimously, so therefore I can't make another motion.

Brooks:

Well, I understand that, sir, but you seemed— No, I didn't ask you to make a motion on that, sir. I said I hoped it clarified the situation. Thank you. Okay.

McDonald:

Mr. Brooks, may I ask a question of Mr. Randolph?

Brooks:

Certainly.

McDonald:

Is there an opportunity—I have a couple of questions – Is there an opportunity to ask questions? Since we have never done this before in my time on the Council, I am not sure what the procedure is.

Randolph:

This is the opportunity for deliberation, and I believe your deliberation would include your asking questions so that you can fully understand the issues, and I also think in regard to the motion that was

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made, if there is anyone who wants to during your deliberations, make any specific comments or ask questions in regard to the various articles that now is the appropriate time to do that.

Brooks:

Thank you, sir.

Mr. McDonald, go ahead, sir.

McDonald:

Then I am going to say I have a couple of questions. First of all, I want to say, that obviously there is a tremendous amount of difference in opinion between the two recommendations. Some of which are philosophical differences, I think, and often those are much harder to bridge, but I would like to ask a couple of questions, neither of which I know the answer to, because I have never asked them before, and one of them would be of Mr. Mierzwa, and I apologize if I am not pronouncing that correctly, thank you, and the second for Mr. Crouse, and I don't presume you know the answers either so if you don't, you just say you don't, and I am not trying to elicit a long response—a short response. On you pay comparison slide that you used somewhere in the middle of your presentation where you used the different municipalities when you showed the pay ranges, I think, are those municipalities considerably larger than Palm Beach? If you had used municipalities of comparable size, would the numbers have changed? I'm just relying on your answer. I know you wouldn't necessarily have any way of supporting your answer, but that's my question.

Mierzwa:

I would imagine hugely. The reason why we used these numbers is that the statute in the Code, the first thing in the Code if you look at it, it's actually some place in the materials says to compare in the local operating area. So, what we do is look at all the contract areas in the local operating area which we consider to be Palm Beach County. That's why we did it that way. Typically, I have done hundreds of Special Master proceedings, and I've only seen one group ever properly compare same size throughout the State. It is very difficult to do, but ours is clearly based on local operating area, and the rationale—the one that's in the statute, and 2) we believe that is where you get your people from. We might be able to send it to Martin County or Broward, but then we would expand it and you would have large sheets of paper, but we do it for the local operating area issue.

McDonald:

By that comment, do you mean the people that would come to work here would be coming from the municipalities that you showed on that slide?

Mierzwa:

My son is thinking about becoming a firefighter/paramedic. He is probably going to be in Palm Beach County. He is going to look at the departments in Palm Beach County. He is going to live where he lives. So it is not only people for moving, one issue has to do with people going from one department to another, the other is newly hired paramedics. Lot of firefighter/paramedics are in

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school. Where are they look for work? What job are they going to take? So it is not only switching departments, my son may look at this, and he'll look at where he is going to progress and benefits. We believe that's what firefighter/paramedics do or if they are smart, what they would be doing. That's why we are using the comparison.

McDonald:
Thank you.

Mr. Crouse, my question for you is, and I don't know the answer to this either, but was has been the turnover of firefighters, I suppose the last year, or if you even know beyond that? What is the turnover rate?

Crouse:

The turnover rate since 1992 including retirements, has been less than 1% per year. The reasons for turnover, by the way when individuals leave the Town, I or a member of the staff will talk to them as to their employment, and to see if they are leaving other than retirement especially, if there are reasons for it. In my 25 years of employment, I have yet to have a person tell me that they are leaving because they feel that the pay and benefits are unfair for –relative to their jobs.

McDonald:

Has the turnover rate changed since the Union, since the employees became members of the Union?

Crouse:

No. As a matter of fact, in 2001 we had 4 retirements and one individual terminated. In 2002, we had 1 retirement, two individuals terminated, two resignations, and in 2003, we have 1 retirement.

McDonald:

Thank you, Mr. Crouse. That's all my questions, Mr. Brooks.

Brooks:

Thank you, Mr. McDonald. Mr. Goldblum.

Goldblum:

I would like to straighten out this pay for performance and what the Union wanted and match what our total figures are going to be, percentage wise, on pay for performance on our old system with our COLAs and everything else added in compared to what the Union wants.

Bill Crouse, I don't know if you want to do it.

Crouse:

If I understand your question, if we were to implement the Town's proposal of the step plan, what would be the–

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Goldblum:

No. Forget the step plan. Our current pay for performance with our COLAs, that's the 3%, with the 7% maximum, etc., how does that compare to what they want in their step plan?

Crouse:

Well, let me put it to you this way: in the fiscal year that just ended September 30th of 2003, the merit system for firefighters that were able to receive merit increases, the full merit increases, was 6.88%. In addition to the fact that there was a 2% increase for the past year, that would have been 8.88% nearly 9% for 2003.

Goldblum:

All right and the longevity?

Crouse:

Well, the longevity would vary. First of all it becomes available to an employee upon completion of the fifth year effective December 1st, and it ranges based upon their salary and the number of years they have been with the Town from the fifth year, 2.5% up to 10% for 20 years of service.

Goldblum:

All right, so it basically--if I take a man in the 20th year, he's going to get an 18.8% increase? He's going to get--go ahead, correct me.

Crouse:

No, no. What the individual will receive in increase in the salary would be what we would equate to -- for fiscal year 2003 -- would be about 9% plus 1/2% of 1% more because they have completed one more year of a higher salary which would probably be another 3/4 of 1%.

Goldblum:

So, we have a total --

Crouse:

Close to 10%.

Goldblum:

10% and on the step plan, the firefighters union wants which the longevity, the step plan takes care of longevity as far as I can understand. What would the increase be?

Crouse:

Well, with the Union step plan, it would be a 5% increase for those individuals who are qualified or not at the top of the range. The difference would be 1% between what the Town's proposal is and what the Union's proposal is.

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Goldblum:

Okay. That is what I wanted to know.

Crouse:

The difference would be 1% between what the Town's proposal is and what the Union's proposal is.

Goldblum:

But they would get far more on the pay for performance.

Crouse:

Yes.

Brooks:

Mr. Crouse, on the Town's position of 4% plus what is the increase going to be under the Town's proposal for members of the firefighters/paramedics? What total percent of raise do they get?

Crouse:

Oh, I'm sorry. That's the 9.2%. That would include the 3% across the board as well as the adjustment to place them in the range at the beginning of the fiscal year and for those who qualify for 4%, the 4%.

Brooks:

So what you are saying is that other things being equal, the pay raise that the Town – has the offer on the table – is 9.2%?

Crouse:

For those individuals who qualify for the 4% merit.

Brooks:

Will you explain that?

Elwell:

Mr. President, if I might. For the record, it's Peter Elwell, the Town Manager, and I rose so I could clarify that. The 9.2% is an average of all those who are not yet at the top of their range. You have heard a lot about whether or not folks can get to the top of their range. Folks can in the current system. They have been able to in our prior pay for performance system and throughout the Town, it is now substantially easier. The top of the range is more accessible to all the employees of the Town than it was some years ago, and that is certainly true for all the Fire-Rescue employees with the pay for performance system as it currently exists, or with either of the step plans that's proposed.

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The 9.2% increase figure that you have heard today represents the average increase to all of the employees which is approximately 2/3 in the bargaining unit who are not yet at the top of their range. The combination of the slotting increase, the 4% step increase, and the 3% that all of the employees have already received and will see in their paychecks for the first time tomorrow for the October 1st increase, the combination of those is an average 9.2% increase for the employees not yet at the top of their range. That's from the Town's proposed step system – what's on the table today – what we're recommending to you.

There would be a smaller increase, substantially smaller. It would be the 3% that they have already received for those people who are at the top of their range because they have arrived at the top of the pay range for their position. So they would still receive the 3% that was awarded on October 1st to everyone but would not be eligible for a step increase, and of course the slotting is irrelevant if you are at the top of the range.

Brooks:

Right. Thank you for that clarification.

Matthew, did you want to...?

Mierzwa:

I don't know how to say this other than you are being bamboozled. The simple fact is that Liz Nowacki last fiscal year got 2 1/2% across the board and 7 1/2% merit. The Town Manager is saying we are taking away the 7 1/2% merit and instead giving her a 4% step.

Brooks:

Well, is that what you negotiated, sir?

Mierzwa:

No, no. That's the Town's proposal. She testified to that and they agreed to it at the Special Master's hearing, that that is what they are doing to her.

Unidentified:

No.

Brooks:

Excuse me. Pardon me, Matt.

Mierzwa:

Are we going to run this properly? I didn't interrupt him. Why is he being allowed to interrupt me? The man never even went to any of the sessions.

Brooks:

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I don't want him to interrupt... Matthew, I know these are tense times. Let's take a deep breath. My understanding is, correct me if I am wrong, is that the Union position was to go for the step plan. Is that correct?

Mierzwa:

The Union's position was to go for its step plan. The Town's step plan says: 'Take away Liz Nowacki's 7.5% merit increase that she earned last year, instead give her 4%.' Wait, I want to say something. He is shaking his head. He wasn't at the Special Master hearing. Dave Kornreich was not at the Special Master hearing. That's what they testified that they were going to do.

Brooks:

Okay. That's fine. I certainly want you to feel free to speak and obviously I would, but my question is, 'If we were still under the pay for performance, would Liz be getting this cut?'

Mierzwa:

No. You have three things on the table. You have the current system that is in place because you can't change it while we are negotiating. You have that system in place. What we are proposing is that you replace that with a 5% step and implement it by putting people, based on experience. The Town's proposal, at the hearing, and read the Special Master's decision—that's what he heard too, because Mr. Elwell and Mr. Kornreich can shake their heads, but that is what he heard at the hearing—that the Town's proposal takes away her merit from last year of 7.5% and replaces it with 4%; therefore, for last year, she loses 3.5%. She testified to that. They said that was true, because neither or those two were at the meeting, and that's what he put in his award. That's one of her losses. The second loss is when you take away her longevity, the complete loss totals to \$4,000. This data—so she loses—the Town — this is — let me tell you one last thing.

Brooks:

Matthew, excuse me. I don't think we are questioning the veracity of the figures or the statement. I don't think that is the issue. The issue is, in the negotiations, and obviously they were difficult and protracted and appear to be still are — it was the Union's position to go away from pay for performance and to go for the step plan. Now, that being the case, we've got 3 items that we are dove-tailing, if I can stretch it a bit, into the question of wages — longevity being one. This is the whole negotiation process. We have just heard from Mr. Crouse that about 63 or 64% of the members of the Town of Palm Beach Firefighter/Paramedics Union, element, unit, will receive a 9.2% raise. 66%. Not everyone. We didn't say everyone. Is that correct?

Mierzwa:

The answer is, 'I don't know.' The truth is: Where is their paper work? We've given you our analysis, person by person, we don't have any paper from them. This is what they have done the whole time, and you wonder why I want Article 1, harmonious relations, because we stood — every time we talk to them, they give us something different. Ask them to produce the paper work they are talking about. Our paper work was on the screen for public exposition. It's in your booklets

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yesterday. We're telling you what we believe is going on. We have totally forthright. This local does this every where. It's well respected as other firefighter locals are. We give you all the information, and say, 'Here it is. We lay it on the table.' We give you the contracts that we use to do the comparisons. We lay out the salaries. Liz and Wayne were calling this week to get information on salaries so that they are up to date through 9/30. We have all the paper work laid out. Where's their paper work? Ask them. Where's their paper work? We haven't seen a piece of paper.

Brooks:

That's a fair question, Matthew. Mr. Elwell.

Elwell:

Mr. President, thank you. I would like to clarify so that you know what the Town is recommending to you. What I am recommending to you. What the Town's management team and negotiations team is supporting today is a – it doesn't resemble what Mr. Mierzwa was discussing as to what may or may not have been testified to in front of the Special Master. What we said clearly a few moments ago, what I want to say indelibly clearly one more time is the recommendation before you is to slot by taking anyone who is not at the top of their range and move them from where they are today, at this moment, not at some point in history, but at this very moment, including the 3% raise that everyone has received on October 1st, to move from that point to whatever is the next highest step in the system. So anyone who is not yet at the top of the range receives a raise of somewhere 0 and 4%. Then at their anniversary date, during this fiscal year, each employee who is not yet at the top of the range will receive a 4% step. Under the proposal that I put forth to you today, each employee would receive a 4% increase on their anniversary date, rather than the old sliding scale 3 to 7.5% performance related increase, be a straight 4% for each employee. The combination of the 3% across the board increase, the variable slotting increase based on how far the person is below the next slot, below the next step, and the 4% step increase results in an average increase this fiscal year for each person who is not yet at the top of their range of 9.2%. For each person who is at the top of their range already, they have received the 3%, and they would receive no additional increase throughout this year. That's as plain and simple and straight as I can recommend it to you.

Brooks:

That's my understanding and I thank you for reiterating it.

Mr. Mierzwa.

Mierzwa:

I have to say this. Mr. Elwell was never at a negotiating session. He was never at the Special Master proceeding. He was never in post-Special Master discussion. He doesn't know what was proposed there.

Now, the second thing is he said, 'What he is proposing...'

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Brooks:

Matt, if I could just interrupt for a moment. With all your years as a labor union representative, an attorney, a very fine one, you know the top officer is never at those meetings. I mean, you know that inside out.

Mierzwa:

Not true. That's not my experience.

The second thing--what should happen though -- is David Kornreich should be explaining this or someone who was at the table or Jeff Mandell, because, remember, just think this through. David Kornreich did the negotiations. Jeff Mandell did the Special Master, and another attorney from their firm, David Young, did the post-Special Master discussion. Three different people. Now, why am I saying this? I'm saying this because Mr. Elwell just said I don't know what I am telling you today resembles or doesn't resemble what happened at Special Master. He just said that. That's what he just said. That's illegal. They can't change their position here for precisely the confusion that is reigning here, because they took one position at the Special Master, and they now have taken a new position. That's illegal. In fact, an employer, I believe in Winter Park, just did that, got hit with attorney's fees, and was found to commit an unfair labor practice. That's what he is saying. He can't say, 'It may or may not resemble...' It has to be exactly what they submitted to the Special Master, because otherwise you have rampant confusion like this.

Brooks:

Okay. Matt, I know Mr. Goldblum wants to speak, but I think in light of the legality question you just surfaced, sir, it may be best if I go to Mr. Kornreich first.

Kornreich:

Mr. Mierzwa is just bandying about terminology-- illegal, this, that and the other thing. You are here to review a recommendation. You are not here to review the legalities of this, that, or the other thing. What the Town Manager is saying to you is, 'Going forward, this is what we are recommending.' Your authority is only, only, to rule going forward. Your authority is not to rule retroactively. So, everything that Mr. Mierzwa said is moot. He seems to be saying, 'There is an issue here about going backward, about going backward and taking things out of Liz Nowacki's pay check. It's not going to be taken out of her pay check. The Town Manager said that. The Town Manager said that because of the practicalities of it, your role is to review it and propose what you are going to propose or implement what you are going to implement going forward. We are not going backward. It's just that simple. So, all the confusion that's been created is really, really unnecessary. Liz, you are not going to lose any money going backward.

Brooks:

Thank you.

Mr. Goldblum, please.

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Goldblum:

Matt, one question. We are here to determine which way we are going to vote. You're telling me that I can't use in my deliberation what the Town Manager has just said. Is that correct?

Mierzwa:

What I am saying is the following: By the way, I believe that you can do pretty much what you want here, but what is 100% clear is that what they presented to the Special Master must be presented here. Mr. Elwell just said he didn't even know if it did or not. That violates the law. Now, yesterday the Town Manager withdrew a proposal that violated the law. By the way, there were 6 of these that went to impasse on 6 subjects they couldn't – we've been, again, cooperative and never filed an unfair labor practice. I have someone saying, 'We're tired of going through this and having them violate the law.' And you're going to – I'm assuming this is taped. We are going to have the tape of Mr. Elwell, what he just said. We're going to have the presentation of the Special Master that they made to the Special Master. They're different. That's a violation of the law. Given that, in answer to your question, after that, you can do whatever you want.

Goldblum:

I cannot.....

Mierzwa:

We are going to have to be back here a year from now.

Goldblum:

Let me ask you a question. Figures were put on the table today, right now, about 10 minutes ago. Can I consider that figure in my deliberations in whether I vote yea or nay?

Mierzwa:

In my opinion you can consider our article 18 which was our position in front of the Special Master and you can consider our wage, our position, whatever we put on the board, and you can put what they gave to the Special Master. That's not what he just gave you.

Goldblum:

I cannot consider what was put on the board right today? Right now. What was reiterated five minutes ago.

Mierzwa:

Ask David Kornreich that. I believe they can only present to you what they presented at the Special Master. After that, you can do whatever you want.

Goldblum:

Okay. Then you are telling me how I have to vote.

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Brooks:
Mr. Wyett.

Wyett:
I would like to address my remarks Liz if she would go to the microphone, because I want to ask some questions.

My impression is that the Union has used you as an example of what's fair or what's not fair.

Nowacki:
I'm one of many examples.

Wyett:
Right. I realize that. I would have to ask 60 or 70 people, so I just – you're right there, and they did use you. If I understand correctly, and tell me if I am right or wrong, starting October 1, the 3% COLA just came in, you will also be eligible for a step plan increase. Is that correct? I assume you have not reached it.

Nowacki:
Under the Town's plan? In March.

Wyett:
Yeah. Under the Union plan.

Nowacki:
We would both be in March on my anniversary date.

Wyett:
And the difference between the Town and the Union is 4% vs. 5% on the step plan.

Nowacki:
Right.

Wyett:
Right. You would receive, if I understand Mr. Elwell correctly, during the course of this coming fiscal year, we'll use the fiscal year because that is what the Town uses, an average of about 9.2%.

Nowacki:
I don't know how it would come to 9.2%. I haven't seen that.

Elwell:

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If I could answer that. I'm sorry. I know I'm interjecting, but I think we are trying to get to clarity where we've got a lot of confusion.

I can't tell you off the top of my head, although we could tell you from reports what would be the actual, specific case for Liz Nowacki. What I can tell you is that all similarly situated people – those who are not yet at the top of their range, the average across that group of employees which is about 2/3 of the members of the unit would be 9.2% this year.

Wyett:

The reason – Well, I am going to assume – I could be corrected, but I am going to assume – in fact I would drop the .2% at 9%, and I am doing that because you have not reached the top. You look young enough so you couldn't be one step below the very top.

Nowacki:

I'm not. I have been here 9 years and I am not at the top. No.

Wyett:

When you receive the 9%, assuming that is correct, against your base pay on which the 9% is calculated, will that be an approximate increase in pay of \$4,500 in the year starting today, this October 1?

Nowacki:

When you talk about pay though, part of my pay includes longevity.

Wyett:

I am going to get to that. I am not finished. But that would be an increase of \$4,500.

Nowacki:

That 3% + my 4%.

Wyett:

Right. Round figures. Now, what the Town is proposing is to drop the longevity, and your longevity pay last year was how much?

Nowacki:

Last year I got 4% longevity.

Wyett:

4%. So, you would be approximately ahead 5% the current fiscal year over the previous year.

Nowacki:

Well, 4 plus....

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Wyett:

If I am right or wrong, I'm going to find out, because let me give a little bit. Going through all these issues and I was an executive for many, many years and employees working conditions are very important. Morale is very important, but the thing that everything comes down to is pay check. So I am trying to find out the Town is being fair. That's what I am trying to get to, and on one hand the Town is saying the step plan is equivalent to a longevity increase, and the Union is saying, on the other hand, that the longevity should not be dropped. It's an entitlement or is part of a pay package and should not be dropped. I think, have I summed that pretty well?

Nowacki:

Right.

The step plan though on either one ends at your 9 or your 10, so, you are not rewarding those senior employees like the longevity does up to your 20. You're taking that away.

Wyett:

I know. I understand. I'm working with the average, and I do recognize that there may be an inequity that needs to be looked at, but for 63% of which you are a member of the 63% class, I don't think you are being hurt in your pocket book. That's what I am getting at. For the 31% there may be an inequity there.

Nowacki:

I compiled these figures that you looked at and those charts that were up there with Captain Lindros, and my pay – I would lose \$4,000 which is in the Special Master Report as well. That is how much would come out of my pocket.

Wyett:

No. You would lose it because you are not going to get on top of the 9%, the 4% longevity which would be...

Nowacki:

I'm not going to get my longevity, and let me...

Wyett:

No, just let me...you see that would give you a 13% increase if you got it.

Nowacki:

It's not an increase, because I get it now.

Wyett:

No, you don't get it now, because the Union has asked for a step plan.

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Nowacki:

Every Town employee with five years gets longevity, so that, if you take it away, would be taking it away from me. It's not in addition to what I make. The longevity is a program that's in the Town's Comprehensive Personnel Manual for every employee.

Wyett:

Liz, I understand where you are coming from, because if I get a dollar this year and you don't give me a dollar next year, you can say I took it away from you.

Nowacki:

If I can just say one thing. I have done well on paper under the pay for performance system. I got a 7.5% raise this year. I got an 8% last year; 7.5% the year before, so on paper it seems that these 51% averages that they told you we've gotten over the last five years should — what are we complaining about? I am still almost \$10,000 behind my counterparts across the bridge who have the same years of experience. So, where was I five years ago before these 51% increases? If I have done well with these 7.5% and 8% raises, what about these other people who've gotten 3 and 4% raises? So, all of us are not here asking you to take away this wonderful merit plan. If we all thought it was so wonderful, we wouldn't be asking you to reduce my salary increase from 7.5 to 5.0. We want equality amongst the firefighters based on experience and years of service, not based on personality.

Applause.

We, all of us, and I'm sure you know this, we love working for this Town. The residents support, and we have felt support all around. We think that the purpose of this was to educate you today on the inequities of the pay system. We don't think that you want us to be in the bottom quartile. You made the public commitment two years ago to keep us in the top quartile. We're trying to show you on paper, and I would be happy to explain those charts to anyone of you in depth. We think that you don't realize that we're not in the top quartile, and that even our range is not in the top quartile. Not only is our range not in the top quartile, none of those 9 and 10 year people even make the range. They are all at the bottom just above Riviera Beach.

Wyett:

Liz, I understand where you are coming from— all you ladies and gentlemen are coming from, but you have a couple of different issues you are throwing at the Council all at one time, some of which are not up for discussion because they are not part of the contract, and one of which I don't believe is in the contract is that we pay less, say, than W. Palm Beach, and therefore you should get more money to equalize you with W. Palm Beach or some other community. That's maybe for next year's contract negotiations, but that was not part of these contract negotiations, and therefore this Council can't pay attention to that one issue.

If it's going to be paid attention to whether your Union representative's requests, the ones we are in

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dispute on, are correct, and we should say, 'yes' or are incorrect, we should say, 'no'. That's what this Council has to vote on as we already took a vote and said we'll vote on all the issues at one time. I voted 'no', because I saw one or more that I would not want to be unanimous on.

Nowacki:

Right. I think this is a lot of information to digest for all of you in one day, and that is why I would suggest that if you are confused in any way about the pay plan, that we would be happy to justify all the numbers in here so that you would know in making a fair decision that we have provided you with accurate information.

Wyett:

Liz, you throw one problem to us, and it is a percentage problem. You will receive 9 or 9.2% increase in the current fiscal year. There isn't a resident in this Town that wouldn't like to be - have an increase in their income. The average income in this Town is down.

Nowacki:

But my income will not be increased, sir.

Wyett:

That's just my point--let me finish-- but if this Town gave you the longevity and the 9% increase, it would be substantially up. That's the way I see it.

Nowacki:

No, no.

Wyett:

You'd have a 13% increase over last year.

Elwell:

Yes, it's true.

Nowacki:

What the statute does require, when you said we can't look at comparing us to West Palm Beach maybe for another contract....

Wyett:

No, we could do that at another time. We just can't do that today.

Nowacki:

No, we have to.

Wyett:

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No, we can't compare you to another town, today. We can do that some other time, but we can't do that today.

Nowacki:

We have the figures in our book. Why can't we do that today? The State statute required us to look at other areas.

Wyett:

But that wasn't one of the 11 issues here today. Where was it?

Nowacki:

Yes, it is.

Brooks:

Excuse me. We're getting.... Mr. Elwell, please.

Elwell:

Thank you, Mr. President.

The ranges certainly are subject to negotiation and there has been discussion about competitiveness. That's what the top quartile question is all about. So, certainly that is in our remaining competitive, within this market place is something that I know you are committed to. We, as a management team, are certainly committed to. The Union expects that of us. We're all working together towards that. We have some difference of opinion about what the current measures are. Some of the things that have been represented are certainly, you know, the statistics can be presented differently depending on what point one is trying to make.

Background noise.

Brooks:

Excuse me. I would – I realize that these are – but I would respectfully request that we follow good decorum and have a decorous attitude, allow each person to speak whether you agree or disagree. I would be most grateful if you could do that. Thank you.

Elwell:

If I might – I think the point Mr. Wyett, as I understood what you were saying, and please correct me if I don't phrase this like what you were trying to convey, but it sounded to me like you were looking at that average 9.2% increase for those employees who have not yet received the – got to the top of the range, and you were saying with that increase and subtracting from that the openly acknowledged reduction in overall compensation based on the longevity, and there's a philosophical discussion we've already had about that and could have for hours about that, but without going back into that, we do suggest, yes, we understand there is lost compensation based on the longevity bonus benefit

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part of this package being proposed to be eliminated. As I understood your point, you looked at a particular example of Miss Nowacki and you say with a presumably something like an 8 or 9% increase in her bi-weekly salary that she is paid through her pay check and acknowledging a 4%, a loss of what had been a 4% benefit to her last year in a longevity pay check, that there is still a 4 or 5% overall compensation increase there for this year, and yes, indeed, for many if not the majority. I don't want to say the majority, because I don't know that as a fact, but certainly for very many employees, that will be exactly the situation where there is the magnitude of the increases off-setting, in some cases more and in some cases perhaps a little less, but the longevity impact. It is precisely acknowledging that, that we felt it was important when you are going to an entirely different pay system where the fundamental basis of the pay system is rewarding people for an additional year of service that we do think it is fair. We don't suggest it is painless, but we think it is fair, and we think the Town with its ranges and its pay system will remain in a competitive position, and will continue to draw top quality employees to work here by implementing the system that we have proposed.

One last thing if I might. It is shifting gears off of that particular clarification, but I wanted to clarify for the record the point that Mr. Mierzwa made, and I think that quite rightly, based on the way inartfully phrased what I said when I first came up. I wasn't at the Special Master's hearing, and the point that I made earlier about whether something was or wasn't consistent with what was presented that day was because Mr. Mierzwa had described certain people's testimony that day, and what I suggested to you when I stepped up, or what I at least intended to suggest to you when I stepped up was that I can't say whether or not what's before you today is consistent with the testimony that he was describing. Certain people may have said certain things, and the record will show whatever that was. What I can say, and I feel I must say to clarify for the record for your decision making today, is that what we are proposing to you today is not substantively different from what was proposed at that hearing. The Town's proposal remains the same, and we believe that proposal is fair and in the best interest of the Town.

Brooks:

Yes, Matthew.

Mierzwa:

The person who did that presentation at the Special Master hearing for two days and wrote a brief is not here today.

Brooks.

That's correct, sir.

Nowacki:

Can I clarify something for Mr. Goldblum?

Brooks:

Certainly.

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Nowacki:

Okay. When you asked if you could consider what Mr. Elwell proposed today, you can't consider that as entirely for the Town. You have to consider what they proposed initially, but this Council has the opportunity to do as it sees fit, not just what we have asked. You do realize that.

Goldblum:

All right. Thank you.

Brooks:

Mr. Wyett.

Wyett:

No, I was trying to get down to the bottom of who comes out even, who comes out ahead, and who gets hurt, and it's obvious that our longest and oldest employees are getting hurt, but on the other hand, I think that is something, as a member of a union, they should be telling their union representatives if they don't like what they have negotiated.

Background noise.

Lindros:

May I just make a point. Captain Lindros from the Fire-Rescue. I was in the negotiation sessions. I am not a member of this particular unit. I'm part of the supervisory unit. What I think we're confusing here – they are confusing longevity and step. We have 3 separate issues: it's step or merit; how we slot; and longevity or no longevity. You can do the step plan – you could do their's – you could do ours. Slotting is just a matter of dates and how they move into the ranges. The big issue is longevity. To use myself for an example: 23 years – it took me 23 years to top out by the way not 9 years – I am not eligible for a step, because I am at the top of the range. If you vote today to eliminate longevity, I will lose \$11,000 a year, bottom line. We have about a 3 foot x 2 foot spread sheet that we used at the Special Master hearing that if I produced it today, would probably drag this out for another 3 hours – try to explain it. But we clearly showed – if my numbers are right – 47 out of the 67 people in the fire-rescue department would lose income, bottom line income, not salary, longevity, COLA – if you look at the bottom line, what their W-2 is going to read at the end of the year, 47 out of 67 people will lose money. I think that is as easy as I can say it.

Mierzwa:

And when we presented that – by the way, just to follow the point – and when we presented that with what Wayne, Captain Lindros, just described, the Town people never said, 'That's not right. That's not what we are doing.' They acknowledged that that's what they were doing. That's why I was upset before, because I am hearing something totally new today. When Wayne did this presentation himself, you have very qualified people here, Captain Lindros and Firefighter Nowacki are very qualified people, when they did this presentation, Wayne did it. The Special Master understood it. We understood it. The people for the Town who were there understood it, and they never said, 'No,

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no, no. That's not what we are doing.' This is what was presented and this is what represents our position and the Town's position, and they never said that's not our position. They said that's exactly our position. For them to say now something different, that's why I said Mr. Elwell wasn't there, because he doesn't know what was presented. He told us something different today than was told at the Special Master. That's not right.

Goldblum:

I would like to get to the bottom of the question. If we kept our same pay for performance, forget the step problem, would our great employees waving in the back, which I appreciate, they do a great job, get more money that they would get on a step proposition? Answer me.

Mierzwa:

I believe that under your current longevity with longevity, under your current merit plan with longevity, the answer is yes. I believe, I believe.

Goldblum:

All right. I come out of the private industry. I do believe in pay for performance. I do believe there have to be guidelines on pay for performance. I do believe, and I don't know if there is a sheet that each employee gets describing what he is judged on. I think they do. I think they do, and I think if we do the pay for performance properly, our employees will make more – I agree properly – I'm here to do what is good for the Town and what is good for the Town is good for the employees and what is good for the employees is good for the Town.

Applause.

It's my recommendation that we go back to negotiations, forget what the rest of the County does on a step plan. I don't believe in it. I never believed in it in a free enterprise system. I come out of the free enterprise system. I've always paid my employees on performance, and I think that is what everybody in the Town should get paid on. I would recommend that we go back to the negotiations and start over again on the pay part of it.

Brooks:

Thank you, Mr. Goldblum.

Mr. Randolph, I think we need your help here. Personally, I am of the same mind that Mr. Goldblum is. My whole career has been pay for performance based, public triggered company. I know certainly quite a bit about firefighters and fire paramedics as I am a grandson of a Boston fireman of 44 years, and my father was a Boston fire captain for 40 years. I have 2 uncles who were on the first hydraulic ladder truck that became a white elephant in the City of Boston, so my heart and sole rest with the personnel of our firefighters. Where we are today, is we have a situation that is facing us, and we've heard more than once this morning is somewhat arbitrarily and gratuitously thrown out that government has to be different than business. Well, friends, that simply is untrue. Money

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come in. Money goes out. It must be accounted for. It must be accounted for in a fair and in a manner that is respectful of all people, and certainly the dignity of the worker must always be respected. What is concerning me today is the senior employees who are capped and because, I am not blaming anyone, but in this process of negotiating, and I'm sure it came as no surprise, all of a sudden longevity is out and that's what is hurting senior employees. So let me go now to a legal clarification from Mr. Randolph. What can we do? The 9.2% concerns me. It's dramatically too high given the – if you read in this morning's Post, the teachers going to the mat on a 2% – friends no one in business is giving a 9.2%. Now, does that mean we have to – you can mutter and all that—I'm telling you no one is, and, Matt, you know that.

Mierzwa:

Palm Beach County is giving an 11% this year.

Brooks:

Well, that's Palm Beach County, sir, problem, and I think you saw that the budget..... Is that why the teachers are getting 2%? I don't know. I don't know. But what I am wondering—my question which I am trying desperately to get to, we have the fiduciary responsibility to our citizens. We have the obligation to treat fairly and respectfully our fire-rescue personnel. Can be split this baby today? Can we have some sort of motion where we would agree? For instance, with the Town in all matters except have a special negotiating session to take care of the senior employees who are maxed. Who are maxed at a 3% cost of living increase. I don't know. I need some help.

Randolph:

I am going to yield to the labor attorneys in regard to that. It is my understanding that after these lengthy negotiations, that it is your role today to act on the articles as they have presented to you today, and that's your role and anything else that comes back through negotiations has to go back through the negotiations process, but I have to yield to the labor attorneys in regard to that.

Brooks:

Could I – then, let's have the labor relations attorney here, please.

Mr. Kornreich.

Can we make a motion, one way or the other and make as a stipulation that as soon as possible, negotiations are undertaken to – for the people who are capped?

Kornreich:

Again, whatever you do today, if you accept the Town Manager's recommendation, that is implemented as of today or tomorrow so to speak. Thereafter, we can commence negotiations at any time. Any time Mr. Mierzwa asks us to negotiate. So, we can meet again, we can meet again and discuss that issue and any other issue. If you want to give that direction, that's fine. I mean that's fine. We intend to negotiate.

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Brooks:

Mr. McLendon.

McLendon:

I didn't think Mr. Goldblum made his comments as a motion, but if he did, I was going to second it and that was to send it back to negotiations.

Brooks:

You can't do that.

Mierzwa:

What you can do – Can I respond to Mr. Randolph's suggestion?

You have to make the decision here, but you can do issue by issue which is not presently your decision, and you also, what I said previously in response to Mr. Goldblum is that I have to present here what I presented at the Special Master which I think in good faith we did. The Town has to do the same thing. I don't think they did. That's somewhat irrelevant. You can do whatever you want. You can say, 'Current merit plan continued with longevity' and then send us back to the table. That is an option for you to do.

Brooks:

Let me get the attorney, Allen, then I'll go right to you

Kornreich:

We would certainly recommend that. We came here, as Mr. Mierzwa says, with certain issues, certain fixed issues. They have their plan. We have our plan. We are asking you to rule in favor of the Town Manager's plan; however, we concede and we suggest that we have the obligation to bargain thereafter—immediately thereafter with Mr. Mierzwa and his group on that issue. If the wage issue, the top out issue, the longevity issue – they are all bargainable items and we can proceed with those as directed by the Council.

Brooks:

Thank you. I would ask both attorneys to stay there just for a moment.

Let me go to Mr. Wyett please.

Wyett:

My impression is that we are moving in one direction with two different paths – one is to approve either the Union or the Town position. Whether we approve one or the other to immediately look at the idea of moving to a step plan was good for our employees. It doesn't seem to me that moving – but it is not my choice, it's you good people out there whether – what you want. If you want a step plan, we have to find an equitable one, but the performance plan, right now, is more equitable over

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a very short run at least, and I think a short coming to the performance plan is that in the past you have complained, and I have listened, as I listened 3 years ago when I was told about rats and infestations, and I got the Town to act on it, but the biggest problem I understand with the performance plan was people were playing favorites. Favoritism in evaluations, whether it's favoring somebody to give them more or less, is not right. It could be what was wrong with the performance plan, and it could be, I believe it is true, that it wasn't properly executed. So, maybe in consultation with your Union leaders, you should look at to what is best. Unfortunately, in my observation of Union agreements, somebody always gets hurt because it is the mean average that the Union has to look at, or negotiators have to look at, and sometimes at either end of the stick, somebody isn't happy and justifiably so. So, if we are forced as a Council, by law, to vote one or the other, we should follow it up with a recommendation to immediately review it.

Mierzwa:

You're not forced to go one or the other.

Wyett:

If we are not, then I make the recommendation that we adjourn with the recommendation that we can continue for the following year or good part with a performance plan. Can't do that?

Smith:

No, that's not what he meant. No.

Brooks:

No, you can't do that Allen.

Smith:

He misunderstood what you said.

Mierzwa:

Could I make just a comment. You can't, I don't recommend it, but you can adopt the Town's position on wages; you can adopt the Town Manager's position on wages; you can adopt our position on wages, but you are sitting, supposedly, as neutral judges, and you can say you have the authority to impose continuation of the current system with respect to pay.

Wyett:

That's what I just said. They told me 'no'.

Smith:

That's not exactly what you said.

Brooks:

No, he's talking about adjourning.

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Goldblum:

Allen, can I make the motion?

I make a motion that we accept the Town's position that we also recommend that you go into immediate negotiations on the pay, either the pay for performance or step plan, and come back to us with a suggestion so that I do not want to see any senior employees hurt on this proposition.

Brooks:

Well, actually, we don't want to see any employee hurt.

Goldblum:

We don't want to see any employees hurt but I want to see an equitable pay scale, performance, program, or whatever you want to call it for all employees. Can I get a second?

McLendon:

Second.

Brooks:

I have a second from Mr. McLendon. I'm assuming both attorneys have the motion.

Randolph:

For clarification, I believe the motion is to accept the Town's management and negotiations teams' recommendations as set forth in their letter of September 26, 2003, as amended by deleting Article 14, with the recommendation that immediately thereafter that negotiations begin in regard to this step pay and pay for performance issue. Is that correct?

Brooks:

That's Article 18, Wages.

Mierzwa:

We're going to be in litigation for the next five years. It is illegal to send or recommend that we negotiate. This whole proceeding is unfortunate.

Kornreich:

Mr. Mierzwa, are you telling us that we can't go back and negotiate?

Mierzwa:

No, I said it is illegal for them to tell you, put in the finding, to recommend to negotiate. We already negotiated. They are here to resolve an impasse.

Goldblum:

All right. So you just want to say that we don't agree and accept the Town's?

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Mierzwa:

People, look at the chart. The first person on that chart loses \$7,000.

You think you have a morale problem now?

Brooks:

I have to have order and I need the attorney.

Randolph:

I would recommend that if it is the Union's position that it is illegal for you to add that addendum to your motion, that you simply leave the motion as made without the addendum.

Goldblum:

I accept that and the motion will be that we accept the Town's position period.

background noise.

Kornreich:

Mr. President, without regard to your, and I understand the Town Attorney has recommended that the postscript be deleted and I would like to say that without regard to that, we are, the Town administration is perfectly willing to return to negotiations. So, you don't really have to make that condition. By the way, if the Union doesn't ratify –

background noise.

Brooks:

Matt, Matt. Let's try and have Roberts Rules of Order at least winked at if not adhered to. Have you finished sir?

All right.

Matt, you're up.

Mierzwa:

We have to go back and negotiate by law. If you do something like you just proposed, do you believe that they are going to ratify—we have to submit that for ratification. If we don't ratify – you can guess if it will be ratified or not – if you don't ratify, it's effective for the first, the remainder of the first fiscal year, subject to negotiations. You know what fiscal year that is? Take a guess. 01 - 02. We will be back here five times this year. This group and the supervisors' group.

Kornreich:

Once again, Mr. Mierzwa specializes in confusion. The fact is that we are not going back. As he

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indicates, this gentleman should be – I think he should be escorted out – I don't know.

Anyway, we are prepared to proceed and negotiate and I don't understand why he wouldn't agree to negotiate. What he says is correct. The matter will become the status quo. It will become the conditions as of tomorrow. That can be changed via negotiations in a week, 2 weeks, 3 weeks, whatever. It could be changed for this fiscal year–be changed for this fiscal year.

Mierzwa:

You campaigned – the campaign literature that the firefighters/paramedics got said that it has taken up to 7 years to get contracts. That's apparently what you are doing. You're taking away – we'll go back to the table and negotiate – you're taking away benefits. You are taking away thousands of dollars. If you think you have a morale problem now, check out what you are going to have if you do that.

Goldblum:

We are not taking away anything. I wanted you – listen to me. I wanted to go back to pay for performance with your longevity–

background noise.

One moment please. Am I allowed to do that? Your lawyer said no. Ask your lawyer.

background noise.

Brooks:

Mr. Randolph, please.

Randolph:

You do not have to deal with these articles on a broad basis like you voted to do. If you want to take out one of them, if you want to approve all or any of the articles you can do it on separate motions. At the beginning of the discussion, you said that you wanted to do it on the basis of one motion. You are not compelled to do that. If you see this pay for performance issue as a separate matter, and want to vote on the rest separately, you can do that, but my suggestion is that what you've got to vote on is the specific impasse that is before you today not in regard to what might be negotiated other than that.

Goldblum:

In other words, I can make a motion to accept pay for performance as we so have it today with longevity.

Brooks:

My only problem, Mr. Wyett, are we then not part of the negotiating team rather than as a quasi-

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judicial body?

Randolph:

I don't think you change the item of impasse. You have to vote on that particular item as it is suggested by the Union or by the Town.

Brooks:

The step plan. Okay.

Mr. Wyett.

Wyett:

May I suggest to this Council that one of the members who voted to have all items considered as a unit, rescind that vote and we'll go one by one. It's a fast vote.

Goldblum:

I would like that to stand and just vote on the pay for performance –

Smith:

No.

Brooks:

No.

Goldblum:

No? All right, then let's go – I rescind it –let's go one by one.

Smith:

What we need. Wait. Wait. Let's stop for a minute. We need a new motion here.

Brooks:

Correct. We have to rescind one.

Smith:

We need Roberts' Rules to step up and reconsider on the motion to review all of the articles together. If once that is done, then you can have a motion to review the entire plan, pulling out Article 18 as a separate item. If you want to go ahead and pass everything else, go ahead so we don't have to do it step by step, but let's do it by step by step please.

Brooks:

Thank you, your honor.

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All right. I need a motion to rescind the previous motion to take all items –

Goldblum:

I make a motion to rescind.

Brooks:

I need a second.

McLendon:

Second.

Brooks:

Roll call, please.

Roll call taken, motion passes 5-0.

Applause.

Brooks:

I need a motion now to, well I guess, procedurally, we're going to extract 18.

Randolph:

If you want to discuss 18 separately, and deal with that by separate motion, you can do that.

Brooks:

And Articles 1, 3, 8, 10, 13, 17, 25, 33, 39, and 40 coupled with one motion.

Wyett:

I would like to review the uniform vote.

Applause.

Goldblum:

I would like to make a motion to review Article 18, Wages, to remove it and discuss it now. I make a motion.

Randolph:

I don't think you need to do that. If you have already determined that you are not going to deal with this all at once, so if anybody wants to talk about anyone of them separately, they can do that.

Goldblum:

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All right. I would like to talk about 18.

Wyett:

And I would like to add in Uniforms.

Goldblum:

Do we need a motion for me to talk about 18.

Brooks:

No. No motion. Go ahead.

Goldblum:

I would like to suggest on wages we keep our pay for performance with our longevity and with our COLA and go forward with that. Do I have a second?

Wyett:

I have a question.

Goldblum:

Yeah.

Brooks:

Go ahead, Mr. Wyett.

Wyett:

I am addressing this to the Union attorney. I'm not looking for you to run into court because we have gone back to performance--

Mierzwa:

I believe that is a lawful motion. No, as a matter of law--

Wyett:

That motion is in the best interest of our Town employees. It is in the best interest of the Town, and if you have a whole year to re-negotiate it to something else if the Union wants it and some members want it.

Brooks:

Mr. Elwell.

Elwell:

Thank you, Mr. President.

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I think that recommendation is in the best interest of leaving this room more harmoniously today, but I have to tell you I don't think it is in the best interest of either the Town's taxpayers or all of the other employees of the Town and I feel compelled to remind you that as Mr. Kornreich presented during the presentation phase of this meeting, the reason that we swallowed the philosophical pill of accepting a step system of some kind as being acceptable in these negotiations was because the pay for performance system which is being implemented fairly and more balanced throughout the rest of the Town has been implemented in a manner in the last couple of years in the Fire-Rescue Department that has caused, instead of raises ranging between 3 and 7.5% with the falling relatively equally across that scale, instead the raises have been averaging over 6% or in the neighborhood of 6% within the department. Because of the nature, we can't judge fairly as certainly me, from the Town Manager's position, even the Chief and the people on his senior management team within the department – can't look at the ratings that are being provided by Union employees of other union employees and second guess what that is. It is only fair and right that those judgements are made at the supervisory level, but those judgements over the last couple of years and the statistics on this are very clear have led towards the prevailing pay for performance raises within that system, within that department, approaching 7% across the board. They have all been up in the 5, 6, and 7% area. We felt that it was our obligation, as a management team, and I will take personal responsibility for the recommendation. It's not comfortable. I don't feel positive about standing here and making it. There is a lot of negative energy about all of this. I recognize that there is pain in this outcome if it goes that way, but I felt compelled to recommend it to you, because I feel that the pay for performance system, our existing pay for performance system, which is working well throughout the rest of the Town, is no longer working well. It is no longer equitable within the department, and it is not fair to the rest of the employees of the Town or to the Town's taxpayers who have to pay the freight to go – to continue on with that system at this time, and that's why we recommended to you that we park our philosophy about commitment to pay for performance at the door, accept the step concept, and then we put forward the step proposal that we did to you today.

Brooks:

Allen, Mr. Wyett is next.

Wyett:

Well, Peter raises a very valid point, because while the evaluation in many previous years, prior to the last couple may not have been favorable to employees, Peter is pointing out that it reversed itself, and now that the Fire Department evaluations exceed the entire rates of the other Town. That gives us a problem. Peter, do you have any way of adding a provision to the recommendation of Mr. Goldblum that we – during the next year, prevent that from happening without hurting the employees?

Elwell:

I think that the most appropriate thing you can do from the discussion that I've heard, if I understand clearly where you are trying to go with this, what you are trying to address that you think is not achieving the perfect outcome today, I believe that by approving the motion that was on the floor a

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little while back where you would approve the recommendations that I have made to you but where you are clearly – you know, I work for you – and you are clearly telling us that you are uncomfortable with the implications for those folks who are at the top of the salary range and the very limited salary increase that they are going to get as compared to losing the longevity. If I understand you correctly, you are not really uncomfortable with the rest of Section 18 as we have proposed it, Article 18, as we have proposed it. It seems fair and even generous to the both of the employees but not to those who are at the very top of the scale.

Brooks:

I think you have hit the nail right on the head.

Elwell:

And if that is what you are saying, the best way to get there would be to approve my recommendation to you on that matter, and then we will go back into negotiations as to –

background noise.

Brooks:

Mr. Goldblum.

I believe in pay for performance. I also believe that the Fire-Rescue took advantage and is what caused this problem. Let me finish. You do a great job, but you are getting 6% compared to 3% of other departments in Town. I think you have to look at your evaluations. I agree the Fire Department unless you are very close and live together, you are friends, I believe all that, but I think you have to police yourselves some way that you don't take advantage of a system. That is what the problem is. You are taking advantage, we believe, right now, the system is taken advantage of. That's what Mr. Elwell said, compared to the rest. All right. Go ahead, Captain.

Lindros:

Captain Lindros in the Fire Department. Back to what Mr. Elwell said a minute ago, our pay for performances, as a supervisor, I do conduct performance evaluations. They are reviewed by the Assistant Chief and by the management level, and I take a little bit of offense about calling my integrity into question as I did with Chief Cox when he meant with me over several of my evaluations. They are routinely sent back to us several times to clarify comments, document the comments, and I think the performance has been documented well.

Brooks:

Liz, I'm sorry but we really have to follow – otherwise we just get drifting, drifting, and drifting. If Liz, if you would like to address –

Lindros:

Some people that their supervisors are here, sometimes they get those performance evaluations back

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4, 5, 6 times, and then even when they are sent through, our Chief makes a comment where he reserves opinion. He doesn't put opinion on.

Brooks:

Thank you, Captain.

Liz, I didn't mean to cut you off, but if you wish to just come to the microphone.

Nowacki:

He kind of touched on it, but what he was saying was that 2 officers, 2 separate officers do evaluations for me. He does and another officer, whoever I spend the most amount of time with during that year. He has to prove the numbers that he is giving me. He can't just give me all high ratings with not valid comments and not documentation of proof of evidence of those numbers. There's many factors that are considered on an evaluation, and our officers have high integrity, and yes, we all work together and we are friends; however, we respect them and don't put them into a position where they would have to over inflate something. We do a good job because we respect them.

Brooks:

Thank you.

Mr. Elwell, go ahead sir.

Elwell:

That's absolutely right. The process that has just been described is correct. The evaluations are reviewed and, in fact, in order that the documentation is sufficiently thorough, they are sometimes sent back. The point I was trying to make is that the management team is not –neither are they in a position to appropriately do this nor would they take this action – it is not going to suggest to a supervisor – all those 5's and 4's look awfully high—they'd better be more like 3's and 4's instead of 4's and 5's. They are not in a position to change scores like that. What they are in a position to do is to make sure that the process has operated properly, that the explanation of the scores is thorough, but the determination, the value judgement that's made on the level of performance is made at the supervisory level. That's where we have seen a change, a demonstrable change. It is a statistical thing that can be clearly shown over the last couple of years, and because of that the one thing, and again, satisfied us that system is broken within this department, is that the final step in that process is when the department head sends it on for the performance evaluation to be processed and the raise to be given. The department head signs either they agree, disagree, or they reserve opinion on the performance evaluation, and Chief Koelz has been put in the position because of what we have seen what is happening with this system within this department in the last couple of years to – in very many cases – reserve opinion. That's his administrative ability to indicate he is uncomfortable with changes that have been occurring within this system within this department. I see a reserve opinion almost never. We see them a couple of times a year, but very rarely in the other departments of the

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Town, and we have seen it become more and more common within Fire-Rescue. I am not casting aspersions on any particular person. I think that it is a system that given the issues that we have been wrestling with and the feeling among the employees that they have ground they want to make up financially, our system has allowed that, and that's why just continuing on with that system isn't in the best interest of the Town more broadly defined or of the Town's taxpayers. We do certainly have more work we can do together. If this system that might be approved today isn't acceptable, we by law are going to have more negotiations, and we certainly can work hard at this particular item, you know, more so that all others to try to address the concerns you have raised today.

Brooks:

Let me go to Mr. Wyett please.

Wyett:

I was sitting here looking for solutions and compromises, and I think that the Council and perhaps the rank and file like the idea of continuing a performance. On the other hand, the Town Manager points out that our performance program, especially in the Fire Department, is maybe a little out of kilter too. So, I am going to suggest a little wrinkle. I just checked with Personnel, and the average of performance, outside the Fire Department, averages in the Town are approximately 5% – whatever it is – 5.1, 5.2 we can easily find out, and the Fire Department be given the job, the Staff, of limiting the total cost to the Town of performance, the mean average of the Town, which would be 5 or whatever it is and allocate that out to the employees in their department with that total cap, and that the evaluations be redone and all done all at one time, because in order to do a cap, you gotta – it's a set amount of money and you can't do some in January and some in November because you will run out of money by November, and that system only be good for the current year, for the current fiscal year, and hopefully all parties will come together with an equitable system for the following year. That would allow longevity to exist. That would allow merit to exist, and while we try to work this out among us.

Now, I don't say that is a perfect plan. I don't know if it will satisfy everybody, but I don't know how we are going to get to satisfying everybody today.

Goldblum:

Is that a motion?

Wyett:

That's my motion. I hope the Council and the rank and file members who serve this Town ably and well will find it the best we can do today.

Goldblum:

I'll second the motion.

Brooks:

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We have a first and a second. Captain, go ahead.

Lindros:

I think what Councilman Wyett just proposed was 5% for everyone if I am understanding that correctly.

Wyett:

No, I did not. I said you'll have a 5% kitty. Some people could, theoretically, I'm not saying this is how it works, some people could get 0 and some people could get 10, depending on how they were evaluated.

Lindros:

I think that takes us back to about 1980 in the Fire-Rescue Department when they used to say you have 'x' number of dollars for raises, and back then the people would sit down and say, 'Okay this one got a raise last year, so we are going to give this guy over here a raise this year.'

Wyett:

I don't say this is a perfect plan, but if your evaluators are being fair and they are operating for the best interests of all members of the staff, they should be able to identify out those who should get 3, 4, 5, 6, 7 whatever the numbers may be.

It is a system often used in the private sector. I don't say it is a perfect suggestion, but I don't think the combined wisdom in this room is going to come up with an answer, so I am merely trying to come up with as good an answer as there is today.

Background noise/applause.

Brooks:

I tell you, right now, we're trying to herd some cats into a wheelbarrow, and we are all over the place, so what we are going to do now is take a ten minute break, and we'll be back at 2 o'clock.

Ten minute break

Brooks:

Good afternoon, we are back in session. I would like to state at this time that the Council is going to go into deliberations, which, of course, is our charge. Speaking as we are in deliberation will be only the Town Attorney, the Mayor, and the Council and if need be we could call upon the Town

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Manager for clarification and input, so thank you very much. Mr. Wyett.

Wyett:

I had my proposal out there to continue with the pay for performance with a 5% or whatever the mean average of the Town outside the Fire Department which was somewhere between 5% or a little bit above that, with all reviews to be done at one time so we don't run out of funds. I know that is a job to try to review everybody in a short period of time. That way the people who are evaluating in charge of being fair to know that they can give more to one and less to another, but it is a system that works in private industry in many ways. It is designed to reward those people who perform the best and to tell those who perform the least, 'shape up'. Don't get my message wrong. I assume you are all good employees.

While we try to iron out this impasse, because if we drop the Town's position, you lose longevity, and in my proposal, you keep longevity. Now, during the ...

Applause

Brooks:

Respectfully, may I remind you that we are in deliberations, so I appreciate your enthusiasm and your comments, but if you could keep it to a minimum and let Mr. Wyett finish with his presentation, I thank you.

Wyett:

During the ensuing year, which both sides have the obligation to negotiate without any mandate from the Council because that is part of the procedure to negotiate next year's contract which starts the next fiscal year. If I am wrong in any of my statements, relatively stand corrected, but I am trying to find a temporary solution. I mean, we're almost in a position that Solomon has been told to cut the baby in half until one of the Mothers gives up the baby. I think that is where we are at, and I don't want to cut the baby. Thank you.

Brooks:

Thank you, Mr. Wyett. You presented that as a motion, sir. Is there a second to that motion?

McLendon:

I'll second it.

Brooks:

Sam, if I could respectfully remind you to use your button so I can be democratic here and call on people as they buzz in.

McLendon:

I beg your pardon, sir.

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Brooks:

Go ahead.

McLendon:

I did second the motion.

Brooks:

You seconded the motion. Is there any discussion on the motion, gentlemen?

Randolph:

For clarification, is that a motion to modify Article 18 as presented by the Town and as presented by the Union in the manner so stated?

Wyett:

Yes.

Goldblum:

My button doesn't light.

Wyett:

I would like to hear other Council people express their opinions on it, because this is a very serious decision.

Brooks:

We'll go to Mr. McDonald. Excuse me. Then I'm going to Mr. Goldblum. Mr. McDonald.

McDonald:

Mr. Brooks, I'm just not sure I understand the motion. Is the motion that you are going to allocate a certain amount of money to the Fire Department, and they would have the latitude of dispersing that however they want?

Wyett:

Yes. I assume that the people who are doing the evaluations are responsible evaluators, and they know they have 'x' dollars.

McDonald:

Okay. So the answer is yes. How much money...how do you determine how much money is sent there to be ..?

Wyett:

Peter, will help you.

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Brooks:

Mr. Elwell, please clarify for Mr. McDonald.

Elwell:

Unless it is the Council's intent to create a new system on the floor today just for the Fire-Rescue Department, other than the single date of evaluation to spread it out in a more equitable way, unless it is your intent to go do that, then my suggestion would be that you phrase it that the existing pay for performance system would stay in place, except that instead of employees being evaluated on their anniversary date of employment with the Town, all employees, within the department, would be evaluated on April 1st.

Wyett:

That is a more articulate way of saying what I said.

Elwell:

In which case then, you don't need to define a pot of money, because the system already provides how to equitably distribute the funds.

Brooks:

Is that pot capped at 5%?

Elwell:

It isn't capped at 5%. What it is is that the distribution within the system is such that some employees could get up to 7.5%, some as low as 3% .

Brooks:

The pot being capped, not the individual.

Elwell:

Yes, sir, the pot is not capped, it's that the average category of increase would be 5%.

Brooks:

That's what I am trying to say. Mr. McDonald, does that answer your question?

McDonald:

It answers my question. Thank you.

Brooks:

Mr. Goldblum.

Goldblum:

I think it answers mine, but let me get some clarification on one thing. Do you take 5% of the total

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payroll of the Fire Department or you just say 5%?

Elwell:

Neither. Every employee is rated, regardless of what their current position is within their range, and every employee will fall into their appropriate position in the sliding scale between 3% and 7.5%. At the end of the day, all of the employees who are eligible to receive an increase, those who are not at the top of their scale, will receive the increase for the slot. If that makes sense. There are ten different slots, and there are 10% of the employees in each of the slots, between 3 and 7.5%, so every employee who is eligible to receive a raise, receives either that raise for their slot or as much of that is necessary to bring them to the top of their range.

Goldblum:

Also, their COLA stays in effect that they get and their longevity stays in effect.

Elwell:

Yes. That is how I understood Mr. Wyett's motion.

Goldblum:

I am asking Mr. Wyett about his motion.

Wyett:

That is correct.

Goldblum:

I think that covers all the bases.

McDonald:

One more question, Mr. Brooks. I just want to make sure, Mr. Elwell, since I am not going to support anything that isn't fair to the other employees in the Town. Does this work? Is it working compatibly with what the other employees in Town would be?

Elwell:

Yes. I appreciate that point. It is a great concern of mine as well and this hybrid, this unique date that would be applied with a system that is otherwise the same as would apply to everyone else in the Town, I believe does address the concern of the system within the department as compared to all other employees of the Town. We'll continue on with the same system with all other employees of the Town where the system is working well, and I believe that the ability to distribute the scores on April 1st, so as to force the application of this system, within the department, to statistically end up the same as the other departments corrects the inequity that I was concerned about when we were discussing what's happened over the last two years.

McDonald:

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Thank you.

Brooks:

Thank you. Mr. Goldblum, does that answer your question?

Goldblum:

Fine.

Brooks:

Any other discussion? I am going to call the question.

Mrs. Pollitt, roll call please.

Roll call: motion passes 5-0, unanimously.

Brooks:

Is there any other...? Mr. Wyett.

Wyett:

On Article 25 or Item 9 on the Union's list here, I would like to endorse the uniform decision to change.

Applause.

McDonald:

Allen, as popular as your motion seems to be, piece mealing this is not good. I am not in favor of it and I wouldn't support it.

Fire Alarm goes off. False Alarm .

Brooks:

Mr. McDonald, you were rudely interrupted by a mechanical apparatus.

McDonald:

I am finished. Thank you. I don't think that piece mealing...they may be interested in this uniform change, but I don't think this is the biggest thing in the world to them, and I think trying to piece meal this does not make sense, so I don't agree with Mr. Wyett.

Brooks:

We had a motion. We had one disagreement. Is there a second for Mr. Wyett's motion?

McLendon:

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Yes.

Goldblum:
I'll second it.

McLendon:
I did.

Brooks:
Any discussion, other than Mr. McDonald's?

I agree with you, Mr. McDonald. I think this should be part of the whole package that's going back to the respective negotiators to be handled. I know it is a nice little frill, and perhaps I could support that motion if the uniforms we are talking about were Boston Red Sox uniforms, but I am afraid that is not the question.

Randolph:
For clarification, excuse me, is to support Article 25, Uniforms as set forth in Mr. Mierzwa's letter of October 15th?

Brooks:
Correct. Thank you for ...by the way, Mrs. Pollitt, I think we are having problem with electricity again. My mike's on but my board is out. So, we're calling the question. We'll go for a roll call to Mrs. Pollitt please.

Roll call:
Motion fails 2-3. Aye votes: Wyett, McLendon. Nay votes: McDonald, Goldblum, Brooks.

Brooks:
Motion fails 2-3.

Okay. Next. As we continue, we have handled Article 18. I need a motion now to handle the remaining articles which would be 1, 3, 8, 10, 13, 17, 25, 33, 39, and 40.

Smith:
We did 25.

Brooks:
It was defeated.

Randolph:
Yes, you need a motion to deal with all of those items that you haven't dealt with other than Article

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It was defeated.

Randolph:

Yes, you need a motion to deal with all of those items that you haven't dealt with other than Article 18.

Goldblum:

I make a motion that we accept the Town's position on the other articles.

Brooks:

Need a second.

McDonald:

I'll second.

Brooks:

We have a second. Any discussion?

Hearing none, I'll call the question. Mrs. Pollitt.

Roll call: motion carried 4-1 with Mr. McLendon casting a negative vote.

Brooks:

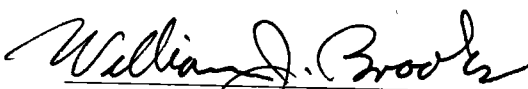
Motion passes 4-1.

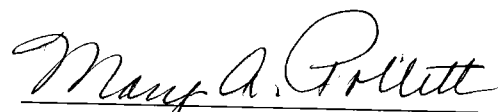
V. Adjournment

Brooks:

All right now, I don't believe there is any other business coming before us at this time. I would like to thank all of the participants for their kindness and ingenuity, and I'll entertain a motion to adjourn. All in favor say 'Aye'. Motion passes. We're adjourned.

End of verbatim transcript


William J. Brooks, Town Council President


Mary A. Pollitt, Town Clerk