

1 STATE OF MINNESOTA DISTRICT COURT

2 COUNTY OF HENNEPIN FOURTH JUDICIAL DISTRICT

3 -----
4 City of Long Lake,

5 Plaintiff,

6 vs. Court File No. 27-CV-23-9758

7 City of Orono,

8 Defendant. TRANSCRIPT OF PROCEEDINGS

9 -----

10 The above-entitled proceeding came before the
11 Honorable Judge Laurie J. Miller on the 30th day of June
12 2023 at approximately 1:00 p.m. using Remote Technology and
13 utilizing Courtroom 1856 in the Hennepin County Government
14 Center, City of Minneapolis, County of Hennepin, State of
15 Minnesota.

16 APPEARANCES:

17 Christopher Yetka, Esquire, on behalf of the
18 Plaintiff.

19 Sarah Greening, Esquire, on behalf of the Plaintiff.

20 Charles Miner, Mayor of Long Lake.

21 Paul Reuvers, Esquire, on behalf of the Defendant.

22 Ashley Ramstad, Esquire, on behalf of the Defendant.

23

1 **(WHEREUPON, the following proceeding was duly had:)**

2 THE CLERK: The court is now in session, the
3 Honorable Laurie Miller presiding.

4 THE COURT: Good afternoon. We are on the
5 record now for a hearing. This is the matter of City
6 of Long Lake versus City of Orono. The court file
7 number is 27-CV-23-9758. Let's go ahead and begin
8 with appearances for the record.

9 MR. YETKA: Thank you, Your Honor.
10 Christopher Yetka, Larkin Hoffman, representing the
11 City of Long Lake. With me is my associate, Sarah
12 Greening, and then also with me is the Mayor of Long
13 Lake, Mr. Charlie Miner, and City Counsel for Long
14 Lake, John Thames (ph).

15 THE COURT: All right. And so, Mr. Thames,
16 are you entering an appearance or are you here
17 observing today?

18 MR. THAMES: The latter, Your Honor. I'm
19 observing today.

20 THE COURT: Thank you. And on the defense
21 side, who do we have appearing?

22 MR. REUVERS: Your Honor, Paul Reuvers and
23 my colleague, Ashley Ramstad.

24 THE COURT: All right. Is anyone expecting
25 anyone else to appear here today?
26

1 MR. YEKTA: Not here, Your Honor.

2 MR. REUVERS: No, Your Honor.

3 THE COURT: So, before I begin to hear the
4 motion, I saw an indication in the motion papers that
5 these two cities have been discussing this fire
6 department situation for it sounds like many years.
7 I'll tell you, as I read through the papers, this
8 looked to me like something that cries out for a
9 mediation, someone to sit down with these parties to
10 help them work out whatever is going to happen between
11 them. Are there ongoing discussions?

12 MR. YETKA: Your Honor, there have been
13 ongoing discussions. I think Mayor Miner can talk
14 about that in more detail. I think those have broken
15 down recently based on the formal actions of the City
16 of Orono that we are asserting is in direct violation
17 of the contract.

18 I can tell you that I don't think we would have a
19 strong objection to a mediation in this case, an early
20 mediation, but I haven't gotten approval from my
21 client of that. But I don't think -- especially with
22 counsel now involved, I don't think we would oppose
23 that. I think frankly if we can find a way to get to
24 the end of the existing contract without any further
25 breaches by Orono and we can agree to that break.

1 There has been a bit of a lack of trust between
2 the two cities given the actions and so, that's
3 exactly why we are in front of the Court right now in
4 a motion for injunctive relief.

5 THE COURT: So, do you know if the previous
6 discussions between the cities have had the assistance
7 of any kind of mediator or have they all been solely
8 just city to city?

9 MR. YETKA: I'll defer to Mayor Miner on
10 that, Your Honor.

11 MR. MINER: Thank you. We've proposed
12 mediation on several occasions to the City of Orono.
13 They have at this point not been willing to entertain
14 mediation with us.

15 THE COURT: So, the previous discussions
16 have not included any kind of a mediator. Is that
17 correct?

18 MR. MINER: Correct.

19 THE COURT: All right. Mr. Reuvers or Ms.
20 Ramstad, anything to add on that?

21 MR. REUVERS: Well, Your Honor, I've only
22 been around for about four days on this case. So, I
23 do -- when I looked at this thing, I think this case
24 does call out for mediation. That's frankly when I
25 have the opportunity to talk to counsel, that's the
26

1 direction that I think that this matter should go.

2 So, I think we are required to do ADR as part of
3 any civil case anyway, and I think a mediation would
4 be in the best interest of all the parties.

5 THE COURT: All right. So, with that out of
6 the way, we can move into the merits of the motion
7 that the Court is going to hear today. Mr. Yetka,
8 it's your motion. You may proceed.

9 MR. YETKA: Thank you, Your Honor. I'm
10 hearing a lot of feedback, I believe, through your
11 clerk's speaker. I don't know if he would be able to
12 mute.

13 THE COURT: I think Nasr is the one who has
14 been enabling us to be on the record, the one who is
15 actually in the courtroom. I'm actually at our
16 Ridgedale courthouse today fitting you in the midst of
17 a day of criminal hearings.

18 MR. YETKA: All right. I'll make do, Your
19 Honor. I'm just getting a little feedback.

20 THE COURT: Okay.

21 MR. YETKA: So, if I'm not as -- if I get a
22 little graveled, it's just simply because I'm hearing
23 myself talk.

24 THE COURT: Okay.

25 MR. YETKA: And, I am not normally this
26

1 forward, but have you had an opportunity to read the
2 materials because that will guide on how much detail
3 I'm going to go through in the record.

4 THE COURT: I have had a chance to read
5 through everybody's briefing. I've also had a chance
6 to read through the two contracts, the one for fire
7 services, the one regarding ownership of the two fire
8 stations or one or both fire stations. I've also read
9 through various correspondence including the notices
10 of termination, which are effective not until the end
11 of 2025, I believe.

12 MR. YETKA: Correct. Great. That is very
13 helpful. I will try to focus my argument then and not
14 spend a lot of time rehashing, you know, facts that
15 the Court is clearly aware of.

16 The Court is right. There are two contracts that
17 are at issue here, the Joint Ownership Agreement for
18 Fire Station 1, which is the northernmost fire station
19 at issue here on the border of Long Lake and Orono.
20 If you look at the petitioners or the plaintiffs'
21 brief, it's on Page 6. There's actually a map that
22 can assist the Court and the clerk.

23 Additionally, there is a Fire Services Contract.
24 The Court has indicated she has read it. It has been
25 in place for, you know, almost 23 years at this point
26

1 and continues to be in place until December of 2025.

2 To give the Court a little bit of background for
3 benefit of the fire station, there originally was one
4 fire station. It was in Long Lake. Long Lake runs
5 the fire department that services not only Long Lake
6 and Orono, but also the cities of Medina and the
7 cities of Minnetonka Beach.

8 In approximately 2000-2001, the fire station that
9 was originally Long Lake was condemned where the
10 extension of Highway 12 and needed to be moved. At
11 that point, Orono and Long Lake agreed to a Joint
12 Ownership Agreement as to Fire Station 1. It was
13 physically moved to the City of Orono but continued to
14 be operated and maintained by Long Lake. In fact, all
15 of the services to Fire Station 1 are provided, sewer
16 and water, by Long Lake.

17 Subsequent to that, there was a new station
18 build, Fire Station 2. This is in the southern-more
19 portion of Orono. Again, it was maintained and
20 operated pursuant to an addendum to the Fire Services
21 Contract by the City of Long Lake. That fire station
22 is owned and it exists in the City of Orono.

23 Part of the reason for adding that station is
24 that the contracts were expanded. What's not attached
25 to the Court's papers but is relevant here, Your
26

1 Honor, is that there is a separate contract between
2 Long Lake Fire Department and the City of Minnetonka
3 Beach, which is immediately adjacent to southern
4 portions of Orono through the Navarre area if the
5 Court is familiar with the Minnetonka area. Fire
6 Station 2 is the fire station that Long Lake uses to
7 service that separate contract with Minnetonka Beach.

8 What brought this whole case to a head, Your
9 Honor, is approximately two years now, Orono indicated
10 at the end of this contract period, that is December
11 31 of 2005, they were going to be terminating both
12 contracts. It's their right to do that. There's no
13 question. But they indicated that they were going to
14 terminate those two contracts, that being the Joint
15 Ownership Agreement of Fire Station 1 and the Fire
16 Services Contract by which Long Lake and the Long Lake
17 Fire Department provide services to Orono.

18 At approximately the same time, they started
19 acting in a manner, Your Honor, that we think is
20 directly contrary to not only a written agreement
21 between the two parties but also the spirit of the
22 contract.

23 The first item that occurred was in October of
24 2022. A ladder truck came up for sale. This is
25 following both the COVID pandemic as the Court is well
26

1 aware and also the (indiscernible) issues and getting
2 vehicles if the clerk tried to buy even a new or used
3 car two years ago, the Court will appreciate how
4 difficult it was to get materials or to get vehicles,
5 and fire services vehicles are even more so.

6 The Long Lake Fire Department became aware of a
7 ladder truck and as part of their due diligence, they
8 were looking into purchasing the ladder truck. One
9 second, Your Honor. I'm going to call up an email so
10 I'm not misstating. They became aware of this ladder
11 truck and started doing some research on it, Your
12 Honor. As part of the fire services agreement between
13 Long Lake and Orono, Orono is involved in regular
14 meetings and as members on boards of meetings, they
15 became aware of this ladder truck.

16 Long Lake began the process of looking into
17 buying the ladder truck and before they could have
18 their meeting, Orono jumped in and purchased this
19 ladder truck out from underneath them, which, as you
20 can imagine, came as a bit of a surprise to Long Lake.
21 The only way that Orono was aware of this ladder
22 truck's availability was through their involvement
23 with the Long Lake Fire Department as part of this
24 Fire Services Contract. They used that information to
25 jump in and buy an asset that is important to Long
26

1 Lake.

2 Now, is that in and of itself a violation of the
3 contract? Your Honor, I would argue that it is. It
4 wasn't sufficient enough -- it was sufficient enough
5 for Long Lake to start thinking about hiring outside
6 counsel, but it wasn't sufficient enough for them to
7 bring an action.

8 That wasn't where Orono stopped. Orono then in
9 December of 2022 started advertising to hire a fire
10 chief. Again, we understand that they were going to
11 be moving their fire services somewhere else or
12 starting their own fire department, but they started
13 advertising for a fire chief. That in and of itself
14 is not an issue.

15 What is an issue, Your Honor, is they had I
16 believe Mr. Reuvers indicated that they had 14
17 applicants for that position. They interviewed four
18 of them. One of the four was the then fire chief, Mr.
19 Van Eyll, who is the fire chief of Long Lake. They
20 interviewed him and they hired him.

21 Now, with all due respect, Your Honor, if you're
22 in a contract with somebody to receive fire services
23 and you hire away the very fire chief that is
24 providing you your fire services, that's not playing
25 nicely in the sandbox. That's not what reasonable

1 cities do to one another when they're sharing fire
2 services.

3 Happily, Long Lake was able to advertise and get
4 a replacement fire chief. It took a while but
5 obviously, it affected Long Lake, potentially affected
6 their ability -- thank goodness, it didn't affect
7 their ability to serve the cities, but they were
8 without a fire chief for a period of time, Your Honor.

9 So, that's number two. Again, actions that show
10 a lack of respect for a contract and lack of respect
11 for a relationship. maybe not actionable. I question
12 whether they are or not. I think they are actionable.
13 I think they are a violation of the implied covenant
14 of good faith and fair dealing in every contract. I
15 would never recommend to a client of mine that the act
16 as such. However, they did. But again, Long Lake
17 attempted to work reasonably within the confines of
18 these actions but understood that these actions had
19 repercussions.

20 The next thing that Orono did, Your Honor, if
21 those two actions were not significant enough, is they
22 approached the Minnesota Legislature and asked the
23 Minnesota Legislature to transfer the pension funds of
24 the Long Lake Fire Department to this new nonexistent
25 fire department in the City of Orono. This, Your
26

1 Honor, I think on its face demonstrates ill will.

2 It's an attempt to hostilely take over the Long Lake
3 Fire Department from Long Lake.

4 Now, to the credit of the legislators who they
5 approached, they said, well, we're not going to get
6 involved in this. If you guys can work it out, that's
7 fine, but we're not going to be forcibly transferring
8 a pension fund from one fire department to another.
9 But, again, it shows Orono's actions here, Your Honor.

10 This is when I was formally engaged. I've been
11 writing letters to the mayor, Mayor Walsh, at the City
12 of Orono indicating our concern that these actions
13 were rising to the or had past the level of violating
14 the existing contract.

15 But when I was not finished, Your Honor.
16 Subsequent to my first letter and subsequent to these
17 actions, they issued a needs assessment for
18 establishing a new fire department. Again, on its
19 face putting together a needs assessment is not
20 inappropriate if they're going to open their own fire
21 department, but if you look at the needs assessment,
22 which is attached, Your Honor, I believe to both Mayor
23 Miner's -- well, actually, I think it's only attached
24 to the complaint here, Your Honor.

25 The problem with the needs assessment, Your
26

1 Honor, is the time. It's talking about not putting a
2 fire station or fire department in place after
3 December 31, 2005. It's talking about dates in 2023
4 and 2024. If there was any ambiguity, Your Honor,
5 that ambiguity was eliminated on June 12 of this year,
6 which is why we are in front of this Court. When the
7 Orono city council enacted the determination that they
8 were going to not only take a certain portion of Orono
9 out of the service area, which they, again, are
10 contractually entitled to do, but they took it a step
11 further.

12 And if I could share the screen, Your Honor, I
13 want to show something that was attached. Actually,
14 the participant screen sharing is disabled.

15 THE COURT: Yeah. I think Nasr can give you
16 the right to do that. While he does that, I'm going
17 to stand up and wave my arms to get my lights to come
18 back on because this office keeps turning them off.

19 MR. YETKA: All right.

20 THE CLERK: You should have the ability to
21 share the screen now.

22 MR. YETKA: Thank you. Your Honor, this is
23 Exhibit A to the declaration of the City Manager of
24 the City of Orono that was filed yesterday, Your
25 Honor. This is the resolution of the Orono city
26

1 council. Again, it's dated the 12th of June of this
2 year. It is Resolution 7374, and I direct the Court's
3 attention to the second paragraph of this resolution.
4 It says the City of Orono will resume responsibility
5 for the operation and maintenance of the Navarre fire
6 station no later than July 1, 2024. Further, city
7 staff is directed to formally notify Long Lake and
8 Medina of this change by July 1, 2023 and coordinate
9 with the Long Lake Fire Department to transition.

10 The first problem with this paragraph, Your
11 Honor, is that Orono has never had responsibility for
12 Fire Station 2, which is what this relates to, but
13 apart from that grammatical error, Your Honor, what
14 this is stating is that not only is the city going to
15 take over the station on July 1, 2024, nearly a year
16 and a half before the present service contract
17 expires, but it's directly its employees including
18 Chief Van Eyll and others to follow suit, Your Honor.

19 This provision, this resolution of the Orono City
20 Council is in direct violation of both the fire
21 service contract and the addendum to the fire service
22 contract, which state on their face that Long Lake
23 Fire Department shall be in control of servicing and
24 maintaining the fire stations including Fire Station 2
25 expressly as it was adopted in the addendum to the
26

1 Fire Services Contract.

2 Now, I guess, I don't want to get too personal,
3 Your Honor, but this official lack of respect for a
4 contract is not entirely unexpected from Orono. If
5 this Court has had any opportunity to follow the news
6 of Orono completely apart from this dispute over the
7 fire services agreement, the Court will see that Mayor
8 Walsh in Orono treats his own citizens in a way that
9 is not respectful on a regular basis.

10 There are pictures and news coverage of him
11 reading the paper when citizens are coming and trying
12 to address the city council. And Mayor Walsh's
13 actions towards Long Lake has been consistent here in
14 that regard.

15 Now, Your Honor, the real issue here are the
16 Dahlberg factors, and I'm going to go through them
17 briefly. But I would direct the Court to a case,
18 which I think is very similar. Well, it's similar
19 enough to be helpful, Your Honor. The Metropolitan
20 Sports Facilities Commission versus the Minnesota
21 Twins Partnership, 638 NW 2d 214. It's a 2002 case
22 before the Minnesota Court of Appeals, Your Honor. If
23 the Court remembers, that was when there was going to
24 be contraction of baseball, and the Metropolitan
25 Sports Commission had a contract with the Twins
26

1 organization that the Twins for a period of time would
2 play their games in the Metrodome, and they decided
3 that they were going to not do that. The Court issued
4 an injunction and said no. You have a contractual
5 obligation. You're going to live up to that
6 obligation, and I'm going to order you to.

7 We have the same thing here, Your Honor. There's
8 nothing that precluded the Twins from leaving and not
9 laying at the Metrodome after the end of the contract.
10 There's nothing that precludes Orono from leaving and
11 not receiving fire services after December 31, 2025.
12 But right now, the Orono City Council has decided that
13 they are going to ignore that contract, and they're
14 going to forcibly take over Fire Station 2 on July 1,
15 2024.

16 Now, Mr. Reuvers has put in an affidavit from
17 Chief Van Eyll, who indicated that, you know, they're
18 just going to play ball with Long Lake and the don't
19 intend to actually forcibly take it over, but the
20 reality is the City of Orono has already dictated that
21 he's going to. He is a staff employee. The city
22 council has said that they are going to take over the
23 station on the 24th. Until I see a formal resolution
24 from Mayor Walsh and the City of Orono, that is their
25 decision. That is the direction that Mr. Van Eyll is

1 going to have to follow whether he wants to play ball
2 or play nicely or not.

3 So, we have the Dahlberg factors. One, do we
4 have a longstanding and formal relationship between
5 the parties? Yes. Long Lake and Orono have been
6 under this contract for 23 years. The contract is
7 clear. The contract says that the City of Long Lake
8 will provide fire services to the City of Orono til
9 the end of the contract and that they will have
10 complete control and maintenance of the two fire
11 stations, Your Honor.

12 The reality is they can say all they want that
13 they intend to honor the contract, but the very
14 statements of their own city council and a formal
15 resolution says otherwise, Your Honor.

16 Is there going to be harm? Potentially, there is
17 harm here. Potentially, there is severe harm here. I
18 don't want to overstate this, but if, in fact, Orono
19 restricts or hinders Long Lake's ability to use either
20 one of these fire stations before the end of the fire
21 contract, people's lives could be lost. Homes could
22 be lost. Fires could not be addressed and responded
23 to in a timely manner, Your Honor.

24 And as an aside here on this issue, there is not
25 a single piece of evidence, and Mayor Miner would be
26

1 happy to address this if the Court has questions.
2 There has not been a single time where Orono has
3 approached Long Lake and said that any of the fire
4 services that they provided have been anything other
5 than exemplary, Your Honor. There has never been a
6 letter. There has never been a phone call. There has
7 never been a single complaint that we've heard from
8 Orono that somehow Long Lake's services have been
9 inadequate in any way, shape or form.

10 My understanding -- well, I'm not sure why Orono
11 has decided that they want to bring this in-house.
12 Maybe it's just an issue of control or otherwise,
13 which is fine, but it's not an issue that they're
14 receiving substandard service in any way, shape or
15 form.

16 The only two harms that they've pointed to on the
17 other side of the aisle here, Your Honor, to Orono is
18 that a) they may lose a polling place and b) that
19 their police officers will lose a place to have
20 administrative hearings. Well, as far as the police
21 meetings, Your Honor, they have a police station in
22 Orono. I don't see why the police can't have
23 meetings, the Orono police can't have police meetings
24 at the police station that Orono has or in another
25 public building. I don't know that there's anything

1 unique about the Navarre located Fire Station 2 that
2 can only service police administrative meetings.

3 And as far as a polling place goes, Your Honor,
4 I've had my polling place changed twice in the last
5 three years because districts change. It's not a very
6 difficult thing to change a polling place, but as I
7 mentioned in our reply brief, if they want to use Fire
8 Station 2 as a polling place, we would have no problem
9 if this Court issues an injunction to preclude Orono's
10 use or hinderance of the use of Fire Station 2. We
11 would have no problem with an exception for use for
12 polling services on voting day, Your Honor. I don't
13 see where that is an issue and certainly not a
14 substantive harm that Orono is going to suffer to be
15 forced to live up to the terms of their own contract,
16 Your Honor.

17 On the merits, I think it's clear here, Your
18 Honor, that Orono has acted in a way that's
19 inconsistent both indirectly and directly to the Fire
20 Services Contract, and I believe it's more than
21 sufficient to show harm. And, Your Honor, the
22 Metropolitan Sports Facilities case that I had cited
23 to earlier says that all a movant has to show is a
24 doubtful showing of winning on the merits. In other
25 words, we don't have to make out anything more than
26

1 just a prima facie case that we have a sufficient
2 basis to win in order to be entitled to injunctive
3 relief if the other Dahlberg factors are met, Your
4 Honor.

5 And then finally, public policy here, Your Honor.
6 Obviously, beyond the threat to life, home and
7 property by disrupting fire services prematurely or
8 disrupting use of certain fire stations prematurely,
9 the public policy should militate in favor of a city
10 owning up to its contract that it has entered into and
11 lived under for 23 years.

12 So, breach of these, Your Honor, we ask that the
13 Court enter a preliminary injunction in this case and
14 our preliminary injunction is very narrowly tailored,
15 Your Honor.

16 The one thing I haven't addressed in detail and
17 this reminds me, and I will, Your Honor. Another harm
18 here or another thing that we're asking for is that
19 Long Lake not directly approach our firefighters.
20 Chief Van Eyll has reached out to at least two
21 firefighters directly to basically try to convince
22 them to come and work for the Orono Fire Department.
23 I noticed in his affidavit in response to the motion
24 he doesn't deny doing that, Your Honor.

25 And so, what we're asking. Again, we understand
26

1 that they can advertise for firefighters generally.
2 There's nothing that, you know, we can do about them
3 advertising generally for firefighters, but I think
4 clearly it's a violation of this contract and tortious
5 interference if the former fire chief of Long Lake is
6 approaching Long Lake Fire Department employees to
7 essentially poach them away, Your Honor.

8 So, for each of those reasons, we ask the Court
9 to enter the temporary restraining order or the
10 preliminary injunction rather than we've requested,
11 Your Honor. It is narrowly tailored. We're asking
12 for two things, that they don't reach out and directly
13 solicit Long Lake firefighters and two, that they not
14 hinder our use of or use either Fire Station 1 or Fire
15 Station 2 and, of course, all of these requests are
16 tempered by the terms of the contracts here, Your
17 Honor. That is through December 31, 2025.

18 If the Court has any questions, I'm happy to
19 address them. If the Court wants to talk to Mayor
20 Miner, he's available to answer questions here as
21 well, Your Honor, regarding his declaration.

22 THE COURT: Okay. So, you're getting to one
23 of the key questions I had for you, which is what
24 precisely is the relief you seek. And so, the one
25 piece of relief now I'm understanding is you want an
26

1 order that tells Orono not to seek to take over either
2 fire station before the end of December of 2025? Is
3 that it?

4 MR. YETKA: Yes, Your Honor. And actually,
5 we did submit a proposed order granting a preliminary
6 injunction and if the Court doesn't have it, I can
7 resend it. But it was filed at the same time, and
8 I'll just read it if that would help the Court if the
9 Court doesn't have it in front of her.

10 THE COURT: I don't have it printed out in
11 front of me, but a lot of times between submitting a
12 proposed order and coming to a hearing, parties modify
13 what it is that they think they want.

14 MR. YETKA: Yeah. We have not modified.

15 THE COURT: That's what I'm trying to
16 understand.

17 MR. YETKA: We have not modified it, Your
18 Honor, and I will read it to you specifically. So,
19 the two pieces of relief we're asking, Your Honor.
20 We're asking for an order 1) that the Defendant Orono
21 and its agents be enjoined from directly or indirectly
22 violating the Contract for Fire Protection and
23 interfering with the Fire Services Contract, and this
24 shall mean that the defendant is specifically
25 prohibited from directly or through its agents
26

1 soliciting Long Lake firefighters to work for the
2 Orono Fire Department or interfering with the work of
3 the Long Lake firefighters. So, that's the first
4 thing, Your Honor.

5 And the second thing is that the defendants and
6 its agents are immediately enjoined from using or
7 hindering Long Lake's use of Fire Station 1 or 2. As
8 I said in my argument, Your Honor, if you want to
9 accept from that order their use of it as a polling
10 station, we don't have an objection to that. And,
11 again, both of these are for the term of the contract,
12 that is through December 31 of 2025.

13 THE COURT: Okay. So, I mean what I recall
14 is that your first one is actually a little broader
15 than what you said because it starts out by saying you
16 want an order telling Orono not to violate the
17 contract but then it goes on to say specifically you'd
18 like them to stay away from your firefighters. An
19 injunction just saying don't violate a contract is in
20 my mind as broad as all outdoors.

21 MR. YETKA: I agree, Your Honor, and that's
22 -- we'll provide context. In other words, what we're
23 saying is we don't want them to violate the contract
24 and here are the two specific items of relief that
25 we're asking for, and I can understand the Court's
26

1 trepidation of having a broad order that was meant for
2 context, not meant for a catch-all, you know,
3 provision. We're looking for these two specific items
4 of relief, Your Honor.

5 THE COURT: Okay. So, to specify for number
6 one then, what you're seeking is an order telling them
7 they cannot approach your firefighters?

8 MR. YETKA: Yup. Directly solicit our
9 firefighters to work for the Orono Fire Department or
10 to interfere with their work as Long Lake
11 firefighters.

12 THE COURT: Okay. What if they generally
13 advertise for firefighters, and your firefighters
14 respond?

15 MR. YETKA: I don't know that that is
16 something that we can preclude, Your Honor.

17 THE COURT: All right. There isn't any kind
18 of a noncompete that you put in place when you hired
19 these firefighters?

20 MR. YETKA: I'm not aware of a noncompete,
21 but Mayor Miner can respond, Your Honor, but I'm not
22 aware of a noncompete.

23 THE COURT: My understanding is that Long
24 Lake doesn't have a full-time firefighting force,
25 correct? You may have a full-time fire chief,

1 although I don't even know if the fire chief is full
2 time.

3 MR. YETKA: It's a volunteer firefighter
4 unit. There may be some that are permanent, but my
5 understanding is it's a volunteer firefighter
6 department.

7 THE COURT: And so, they're paid for their
8 on-call time or for their responding to calls time,
9 right?

10 MR. YETKA: That's my understanding, Your
11 Honor, and, again, Mayor Miner can disabuse me if I'm
12 wrong.

13 THE COURT: And so, I actually don't know
14 the answer to this and maybe you do and maybe you
15 don't. How common is it for rural volunteer
16 firefighters to sign up with more than one fire
17 department?

18 MR. YETKA: I think that happens, Your
19 Honor.

20 THE COURT: So, it's not unheard of?

21 MR. YETKA: It's not unheard of and, again,
22 if they generally advertise, Your Honor, and some of
23 our firefighters want to serve on more than one,
24 that's something that we can address. We're not
25 saying that they can't generally advertise. What
26

1 we're saying is we don't want our former fire chief
2 going down and doing what he has been doing, that is,
3 are you with me or not? Are you coming or not? That,
4 I believe, is a violation of the contract and
5 potentially runs the risk of making it difficult for
6 us to service our city contractors.

7 THE COURT: All right. And yeah. You
8 haven't touched on the administrative burden factor.
9 Both sides seem to think there would be no
10 administrative burden to the Court in enforcing an
11 injunction if one were issued, but I kind of wonder
12 given the general messiness of how this has played out
13 in recent months as to whether this might not generate
14 calls back to court as to was this firefighter
15 recruited? Does this firefighter decide to go to
16 Orono under his or her own steam?

17 MR. YETKA: Your Honor, that is why we're
18 asking for an order. There is some possibility that
19 we would need to seek the Court's advice on those
20 issues, Your Honor. But I still think the potential
21 damage here outweighs that burden, and I can assure
22 the Court that we've waited a significant amount of
23 time to even bring this action until we had an actual
24 resolution from the City that was, you know, in
25 violation of this.

1 We've been trying to work it out. There is an
2 open, you know, settlement request that Long Lake sent
3 to Orono that has not been responded to. We've tried
4 to lay nice in the sandbox, and we've been met with
5 resistance is a nice way to say it.

6 THE COURT: All right. Anything else you
7 want to present, Mr. Yetka, before I turn this over to
8 your counterpart?

9 MR. YETKA: No, Your Honor. Thank you.

10 THE COURT: So, I'm looking at my clock and
11 realizing there are going to be some criminal folks
12 who are going to be looking to me to maybe come into
13 the other courtroom here shortly, but I want to give
14 the defense a fair opportunity to present your side of
15 this. So, counsel, you may proceed.

16 MR. REUVERS: Thank you, Your Honor. Really
17 the touchtone for the analysis and injunction is a
18 likelihood of success. That's frankly the most
19 important factor here. It's just not present. There
20 is no breach. There is no imminent harm. There is no
21 harm. Nothing has happened. I mean, the one thing we
22 can agree nothing has happened other than the passage
23 of the resolution.

24 And all these other things are items of a
25 department taking the necessary and reasonable steps
26

1 to establish a brand new fire department. The City of
2 Long Lake made that policy decision to establish that
3 department.

4 THE COURT: In Orono?

5 MR. REUVERS: In Orono.

6 THE COURT: Long Lake. I don't think they
7 did this.

8 MR. REUVERS: It's pretty rare to have the
9 cities like this, Your Honor, but regardless. Orono
10 made the policy decision to establish its own fire
11 department. Each of these are reasonable steps to
12 establish that. I'll just take them in turn.

13 The ladder truck. You've got the declaration
14 from the city administrator explaining that. Number
15 one, we need to acquire equipment. We have our fire
16 chief explaining it's hard just as Mr. Yetka pointed
17 out that acquiring fire equipment, there's a long lead
18 time. So, it's reasonable and appropriate for us to
19 start acquiring equipment for our fire department.

20 Our chief has also indicated that we need to
21 start. We can't just start on January 1, 2026. We
22 want a phased approach. Those are the resolutions
23 that we have provided to you, that the city council
24 wants a phased approach and per the contract, they're
25 entitled to withdraw an area. The Navarre area is the
26

1 area that was withdrawn by Resolution 7374. And just
2 as a backdrop, Station 2 was built to service the
3 Navarre area. So, it frankly makes sense that that
4 fire station would go with that area. We have our
5 chief indicating they don't need it, but nonetheless,
6 if Long Lake does not relinquish -- they demonstrate
7 the need it, our chief is on the record and will work
8 directly with them.

9 THE COURT: Well, your chief may be on the
10 record in saying that in its affidavit, but your city
11 council and your mayor are on the record in a
12 resolution saying they're going to take it over next
13 year.

14 MR. REUVERS: Well, Your Honor, I think
15 they're reading more into that resolution that is
16 there.

17 THE COURT: It's a pretty plainly worded
18 resolution. Is it not?

19 MR. REUVERS: Well, I look at the -- you
20 know, the staff is directed to work with the Long Lake
21 Fire Department for a smooth transition. And our
22 chief --

23 THE COURT: Yeah. But it says they will
24 assume responsibility or actually, resume
25 responsibility for operating and maintaining it no

1 later than July 1, 2024. That's a year and a half
2 before December 31, 2025. Is it not?

3 MR. REUVERS: It is, Your Honor, but nothing
4 has happened. I mean, the resolution is --

5 THE COURT: Well. Okay. Go ahead. Go
6 ahead.

7 MR. REUVERS: But, again, I mean, the point
8 is, Your Honor, nothing has happened. We have the
9 chief on the record that nothing will happen. He is
10 in charge of the department and has indicated there is
11 nothing imminent that will take place and if Long Lake
12 indicates that it will continue to use it and not work
13 on a smooth transition, that they will make other
14 arrangements. So, on that basis alone, there is no
15 need for injunctive relief on that resolution. And
16 all of these other items, again, are all reasonable
17 steps to take to establish a new fire department.

18 THE COURT: Do you have any evidence that
19 the folks at your city learned about that fire truck
20 anywhere other than through Long Lake and its efforts
21 to buy the ladder truck?

22 MR. REUVERS: Your Honor, I can only speak
23 or point the Court to the declaration from the city
24 administrator. I simply haven't been around long
25 enough to point the Court to anything else.

1 THE COURT: And I understand that. I mean,
2 I didn't see anything in that declaration to say they
3 found out about it through independent sources.

4 MR. REUVERS: I don't think --

5 THE COURT: Does it not seem to you to be
6 playing a little bit unfairly for one party to a
7 contract who knows the other party to the contract is
8 looking for a ladder truck and has identified a ladder
9 truck to then go out and buy that ladder specific
10 ladder truck out from under its contracting partner's
11 nose?

12 MR. REUVERS: Your Honor, I think we have
13 the ability to acquire any equipment just like they
14 have the ability to acquire any equipment they deem
15 necessary. There is no prohibition or we need to do
16 it. We need to acquire appropriate equipment. And
17 also, if you look at the declaration from the city
18 administrator that to the extent that there was a need
19 for this, you know, that they would provide it. This
20 was in Paragraph 12, you know, of Mr. Edwards'
21 declaration. Orono offered to provide the vehicle to
22 Long Lake Fire Department for use until the contract
23 ended.

24 So, they're acquiring the equipment, but they're
25 going to allow Long Lake to use that. They've made
26

1 that proposal. So, it's not there to undermine the
2 Long Lake Fire Department. It's to acquire the
3 appropriate equipment we need. So, I think the
4 important critical aspect of that is there was an
5 effort to work directly with Long Lake as to that
6 ladder truck, and that is in the record and that is in
7 Mr. Edwards' declaration explaining that situation,
8 and I think similarly, just with firefighters, nobody
9 is under a noncompete.

10 Even with the chief, it's not surprising that the
11 chief applied, who knows the area the best, who is
12 making more money and has an opportunity to build a
13 brand new fire department, saw this as a great
14 opportunity. That's no prohibition in the contract.
15 Departments hire people all the time, fire
16 departments, police departments. You see that
17 routinely.

18 We also have our chief. Your Honor, it is common
19 for people in the small departments to work for
20 different departments, and that's where the chief's
21 declaration is made clear that when he was chief at
22 Long Lake, he never prohibited anybody from working
23 for multiple departments. As Chief of Orono, he has
24 made it clear he has -- there will be no prohibition
25 on firefighters working for multiple departments. He
26

1 would never stand in the way of that.

2 The fire chiefs are friends, and they work well
3 together. There is nothing in the record to suggest
4 that the fire departments don't work well together. I
5 think it's telling that we don't have any declaration
6 from their chief indicating that there's any issues.
7 Our chief has opined that they have all of the
8 equipment necessary to accomplish what they need to
9 do.

10 They've also, Your Honor, pointed to, you know,
11 the approval of the capital budgets. The contracts do
12 not require us to approve it. In fact, it expressly
13 allows each contracting city to reject it. There's a
14 budget process within the contract itself. So, simply
15 not rubber stamping or approving what Long Lake may
16 desire, you know, is not a breach of the contract.
17 We're specifically allowed to do that, and they have
18 to be mindful of their budget looking to the future
19 knowing that this contract is going to end.

20 So, none of those things. Even the legislative
21 action for pensions, establishing pensions and having
22 control of the pensions is a part of establishing a
23 new police department.

24 THE COURT: Explain that to me. I mean,
25 doesn't that strike you as a bit of an overreach?

26

1 Orono doesn't have a fire department. It wants to
2 create a fire department to compete with Long Lake,
3 and it goes to the legislature to try to take money
4 that Long Lake currently has in place for its
5 firefighters and transfer it over to Orono yet-to-be
6 formed fire department. Doesn't that seem a little
7 bit outside the bounds of good faith and fair dealing
8 with your contractual partner that you are still in a
9 contract with?

10 MR. REUVERS: And, again, Your Honor, I
11 think that's a, you know, they have the ability to go
12 to the legislature to seek that authority. I think
13 that they did a typical step in trying to establish a
14 new fire department. So, number one, there's nothing
15 inappropriate with that. The legislation didn't go
16 through. But there's no breach of the contract.
17 That's certainly not a reason to issue some sort of
18 broad injunctive relief against the city. Again,
19 we've got the city administrator, the city fire chief,
20 city attorney all on the record, and nothing has
21 happened. There just has been no breach.

22 THE COURT: Do you have any evidence at all
23 that Long Lake has not been providing appropriate fire
24 service?

25 MR. REUVERS: And I don't think that's the
26

1 issue, Your Honor. I think that the issue is that the
2 city has made the decision that it's going to --

3 THE COURT: Mr. Yetka has acknowledged that
4 they have every right to do that as of the termination
5 of this contract and they gave appropriate notice that
6 it would be terminated as of the end of December of
7 2025. But what I see in evidence here is apparent
8 determination by Orono that they don't want to wait
9 that long. They want their fire department up and
10 running by no later than July 1 of 2024. Why is that?
11 Why are they so eager to supersede Long Lake before
12 this contract is over?

13 MR REUVERS: Well, as our chief indicated in
14 our declaration, it takes time to properly establish
15 the department.

16 THE COURT: But this isn't trying to
17 establish it by December of 2025. This evidence that
18 we see on the screen right here is that they want to
19 establish it by the middle of 2024 or at the latest,
20 no later than July 1 of 2024.

21 MR. REUVERS: And, Your Honor, they want to
22 make sure that the fire department is operating
23 appropriately and they have the contractual ability to
24 withdraw the area, and that's been number one in the
25 Resolution 7374 that you see on the screen there.

26

1 There is no dispute the city has the contractual
2 ability to do that. This gives them the ability to
3 provide service to that area before they take over the
4 whole city when the contract finally ends.

5 This is laid out in the declaration of our
6 chief, you know, that it takes time, and this is a
7 phased approach to providing our fire services to our
8 community. So, that's the reason to phase it in and
9 not take it all over and start from scratch on
10 January 1, 2026. So, it's a phased approach, and it's
11 one endorsed by our chief. That's why they're going
12 that direction, Your Honor.

13 But the bottom line is nothing has happened, you
14 know, to Fire Station 2 or Fire Station 1 and, again,
15 I will rest on the declarations that we provided to
16 the Court from our chief and city administrator.
17 We've also pointed to the letter from our city
18 attorney. You know, the city fully intends to abide
19 by all of the contract terms. So, with that, Your
20 Honor, there's just no basis to grant injunctive
21 relief at this point.

22 And I think to your point about administrative
23 burdens, I suspect we'd be seeing a lot of you if we
24 get into employment issues. If a broad injunction is
25 issued, I have significant concerns with how that will
26

1 be interpreted and --

2 THE COURT: Hold on a second. All right. I
3 told you the criminal folks would be knocking on my
4 door and, in fact, they just have. So, if you need --
5 -

6 MR. REUVERS: Your Honor, I'll rest on the
7 rest of our filings and just simply ask that the Court
8 deny the motion for injunctive relief for the reasons
9 we set forth in our brief, and I do think it would be
10 appropriate for the Court to order early mediation.
11 Thank you.

12 THE COURT: All right.

13 MR. YETKA: Can I make three brief points,
14 Your Honor?

15 THE COURT: Very briefly.

16 MR. YETKA: Three points, Your Honor. The
17 first has to do with the ladder truck. The way that
18 Orono discovered the ladder truck was through the fire
19 advisory board that they sit on, Your Honor. You
20 could take judicial notice of this because it's in the
21 public record. The city council of Long Lake approved
22 seeking purchase of the ladder truck on October 18,
23 2022 and wanted just to get approval of the fire
24 advisory board. Orono knew about that on October 24
25 of 2022. Orono approved the purchase of that fire

1 truck, Your Honor. So, that's the timing and that's
2 how they became aware of it.

3 With respect to the pension, Your Honor. Your
4 Honor, they didn't ask the legislature to establish a
5 new pension for a new fire station. They asked to
6 transfer the Long Lake pension. Those are two
7 different things. The latter would maybe be
8 appropriate. The former was not, Your Honor.

9 And then last, but not least, Your Honor, he
10 talks about phasing in use. Yes. They can take
11 portions of Orono out of the contract. The reality is
12 they can't take a portion of Orono out of the contract
13 in order to create a reason for them to breach the
14 contract. There's nothing that would preclude them
15 from phasing in their roll after the end of this
16 contract; that is, serve out the end of this contract
17 and if they want to have us continue to provide fire
18 services for certain portions after that, that would
19 be the way to approach it not creating a breach on the
20 front end, Your Honor. That's all I have.

21 THE COURT: All right. Well, I think I
22 understand everyone's positions. I am going to take
23 the motion under advisement, but I heartily suggest
24 that you all ought to be getting yourselves into
25 mediation as soon as you possibly can. This thing
26

1 cries out for a skilled mediator to sit down with
2 these cities because the fact of the matter is this
3 contract is going to end at the end of December of
4 2025 and whether Orono gets to steal a march on Long
5 Lake by putting things into effect a year and a half
6 earlier than that, I've got some legal issues to sort
7 out here.

8 But your cities need to figure out how to do this
9 in an orderly way, in an appropriate way that is going
10 to meet the needs of all of the citizens in both
11 cities to have continuous appropriate fire service.
12 It doesn't seem to me like that is driving much of
13 what's been going on between these two cities. I
14 don't know why there isn't an ability for these cities
15 to sit down and agree on this, but I think a skilled
16 mediator might be able to help you get your clients to
17 maybe talk in a more productive way than they have
18 been able to on their own.

19 So, if you want the Court to suggest a mediator,
20 I will do that, but I would like to give you an
21 opportunity to see if the two of you can't sit down
22 and between yourselves come up with something, someone
23 who you both think might be appropriate.

24 So, maybe what I will do is ask you to report
25 back within a week as to who you have selected for a
26

1 mediator or if you can't, maybe what I'll do is ask
2 each of you to submit some names to me and then, I
3 will get back to you on it. All right?

4 MR. YETKA: Thank you, Your Honor.

5 MR. REUVERS: Thank you, Your Honor.

6 THE COURT: All right. Thank you all for
7 your presentations, both written and oral. They've
8 been very helpful to the Court, and I have to run off
9 to a criminal hearing. So, the Court will stand in
10 recess.

11 **(WHEREUPON, the proceeding concluded at approximately 1:50**
12 **p.m.)**

13

MINNESOTA
JUDICIAL
BRANCH

1 STATE OF MINNESOTA)

2)

3 COUNTY OF HENNEPIN)

4

5

6 I, Diane Aho, do hereby certify that the above
7 and foregoing transcript consisting of the preceding pages
8 is a true and correct transcript of the digital recording
9 taken on the above date and is a full, true and complete
10 transcript of the proceedings to the best of my ability.

11

12

13

14 Dated: 8-9-2023

15

16

17

18

Diane Aho,

19

Court Reporter

20

21

22

23

24