

BUDGET, FINANCE AND PERSONNEL COMMITTEE

October 13, 2009

2:00 P.M.

Councilwoman Berz, Chairwoman, called the meeting of the Budget, Finance, and Personnel Committee to order with Councilmen Gilbert, Scott, Ladd, Rico, Robinson, McGary, and Benson present. Councilman Murphy joined the meeting later. Also present was Shirley Crownover, Assistant Clerk to the Council. Attorney McMahan joined the meeting later.

Others present included Doug Kelley, Donna Kelley, Susan Dubose, Officer Toby Hewitt and Madeline Green. Nancy Nason, Sandy Coulter, David Johnson, Gary Hilbert, Paul Page, Danny Thornton, Dan Johnson, Barry Bennett and Bill Payne joined the meeting later.

PROPOSED CODE CHANGES TO PERSONNEL ORDINANCE

As an introduction, Chairman Berz related that for the past few months a team, consisting of herself, Administration, Unions, and Workers had been responding to a need that we have; that some of our codes date back to 1963 and need to be updated in regards to Fair Labor Standards. She mentioned the large amount of overtime and budgetary constraints, stating that they had took a look at everything to see what it would take to get us up to “snuff”; that they went through the old code and had been meeting in this room. She mentioned the presence of the Fire Department, Police Department, Administration and Public Works and some of the workers were involved; that they wanted to get this fixed, and it had been a fabulous process and there was only one line that everyone had not agreed upon. She noted that the Police Chief and Unions had been present and that Public Works was here, along with workers and SEIU; that Daisy Madison and Donna Kelley and even some Council members had come to the meetings, and they were now ready to go forward. She asked Donna Kelley to go over changes to the Personnel Ordinance.

Ms. Kelley first went over Injured on Duty procedures, stating that these were not managed like Blue Cross-Blue Shield and prices were negotiated and had become a “free for all” and very much needed to be modified; that right now we pay 100% of the salary for six months for an Injury-on-Duty; that in today’s business, like Tennessee Workers Compensation, it is 66 2/3 of the salary up to a year; that it usually takes longer than six months to heal.

Chairman Berz stated that they were looking at current practices and other Best Practices, and this is what the team agreed to, and they tried to tailor this to our workers.

Ms. Kelley went on to say that the recommendation was to approach this in a way that it would be six months at 75% and then extend this to an additional six months at 65% and pay this as a disability payment, and the employee would not be taxed.

Councilwoman Robinson spoke to the 100% at six months, stating that we would probably have ten workers per year injured and on the average they would be out less than six months; that they would come out on the short end with the new way. She asked how many injuries we had that went past six months? Ms. Green responded maybe 20-30 per year—that the norm time being off is two months. Councilwoman Robinson asked if we did regular workmen's compensation and was told that we are self-insured.

Ms. Kelley noted that Tennessee Workmen's Compensation is always available, and they can switch; however what we are doing is not prudent, and it cost more money.

Attorney McMahan added that we would allow people to retire if they were truly disabled for the rest of their life, which Workmen's Compensation would not normally cover.

Ms. Kelley added that Injured-on-Duty would be paid 100% of their medical costs for life; that this is complicated and not regulated by any method; that it is medical costs and pharmacy expenses for life; that others use a two-year rule, and this is reached within two years.

Councilwoman Robinson questioned why we not just saying injuries, and it was explained that this covers heart and lung disease as well.

Ms. Kelley went on to say that if we followed industries' standard it would cover two years and within this provision we could include a section for catastrophic care as a separate section. She noted that our current practice of Injured-on-Duty goes back to 1963-1968 and that the City covers related pre-existing conditions right now, and we need to modify this; that most companies would disallow pre-existing conditions, and we could include an option to choose a second opinion.

Councilwoman Robinson mentioned a fireman who might have bad knees and would need to climb a ladder. She asked if a fireman with a bad knee would be disabled?

Ms. Kelley mentioned that a person could be disabled because of a lung condition, and they continued smoking; that they would need to demonstrate that it was an on-the-job injury. Councilwoman Robinson mentioned that because of September 11, 2001, some firemen have documented exposure and are now beginning to have trouble with their lungs. Ms. Kelley responded that there would be a report. Councilwoman Robinson still felt that this was pretty loose.

Attorney McMahan noted that they would have to prove that they are not smokers. Councilman Benson stated that if a person knew they had an early lung cancer pre-existing condition, there should be conditions to stop this. Ms. Kelley stated that that was what we were asking for. Councilman Benson went on to say that some might not know they have the condition. Ms. Kelley stated that we could ask for medical records.

Chairwoman Berz stated that everyone on the team fully agreed with this and asked if there were any other questions; that the Legal Department needed to put this in Ordinance form.

Councilwoman Scott stated that she was not sure she understood and wanted to know if we were taking a vote now to allow this? Chairwoman Berz stated that we were meeting for this purpose; that once the Council agreed, we could tell Attorney McMahan that it was okay, and we would be able to see this in Ordinance form. Councilwoman Scott stated that she knew a lot of work had gone into this, and she appreciated it, and it sounds good, but she would like to be able to defer a vote and be able to sit down and ponder this—that it sounds good; that she was surprised at the current practice that was described today; that this had taken a significant amount of time, and she would like the luxury of a week to think about this.

Councilman Benson explained that Chairwoman Berz was just trying to get a consensus.

Councilwoman Robinson stated that she, too, would like to take a look at everything.

Ms. Kelley stated that they were asking for the Council's help, with Chairwoman Berz stating that we were in the Cro-Magnon era and needed to be dealing with equity and cost-saving; that this was an informational piece.

The next area covered by Ms. Kelley was modification of police overtime and discussion surrounding overtime paid for hours worked over a normal work period and overtime on the seventh consecutive day with double time on the seventh day. The change would be that we would pay for hours worked at time and one-half over 40 hours; that some employees within the city do not think we should take such a strict interpretation.

Chairwoman Berz noted that the team was unable to come up with Best Practices for the City and that a representative of SEIU had asked to speak and also someone from the Police Dept.—that it was hours worked, literally versus hours paid when overtime kicks in.

Councilman Murphy stated that the only question he had concerned hours paid versus hours worked—that hours worked might mean additional bookkeeping for the City. Ms. Kelley stated that hours worked is a perfect companion.

Benny Goolsby, Representative of SEIU, addressed the committee stating that they had met several times, and this was a major hang-up; that they would like to see what is happening to help employees; that the work week needed to be defined with regular hours and some policy where an administrator could not send a person home just to keep from paying overtime; that he would propose taking out the 7th consecutive day and go back and define the work week because all groups don't have the same work week; that the City does not know what it is looking at as far as savings; that if it is a holiday, the employee could be made to use this as personal time off, and it would count as time worked; that we needed to come to some sort of agreement and define the work week so as not to manipulate employees; that if employees work overtime, they want money.

Toby Hewitt with the Police Dept. spoke next. He stated that he was speaking for police officers, noting a 28-day pay period if this rule is enacted; that in his nine years, he had never been paid double time; that he was apprehensive; that the times they had to work was extensive.

Councilman McGary asked if the Personnel Ordinance Manual was geared toward employees or Administration? He wanted to know if we were trying to find a healthy balance.

Chairwoman Berz responded that it was out of balance and some things were plain wrong; that we needed to strike a balance; that they had started with one premise—that no one would lose their job and everyone would stay employed; that overtime is an added problem, and we could argue who benefits; that there needs to be some answer across the board; that the Police are different from every department; that we need to clearly define work week; that Administration had been part of this discussion; that the policy was not to manipulate employees; that if the police were doing special work, we want them to have mental health time.

Councilman McGary stated that if it is a toss-up, his thoughts would be to show deference to employees.

Councilwoman Ladd stated that she was concerned with the first statement—no perfect compensation time; that there is an angle on everything; that she liked the second part; that there could be a need in the middle of the night.

Councilman Benson stated that we could not touch the quality of service being given to the public; that we needed to make certain we are doing what is reasonable for our employees and see that our employees have the highest morale; that public servants need to be treated fairly, and they need to be happy public servants within our financial constraints.

Councilman Murphy agreed that we need to do right by our employees, but the practice we have is mind-boggling; that he thought we were only getting one side of the equation in going with hours paid versus hours worked.

Ms. Kelley stated that we were aligning business practices with the payroll system that is available.

Councilman Benson stated that this is about more than money; that it is about how you treat your people, and he would appreciate this approach.

Councilwoman Robinson stated that we needed a very reasonable understanding of the job and hours and needed to define the work week as eight hours five times a week and see that vacation and leave time are not getting highjacked.

Officer Hewitt stated that he was a representative of the Fraternal Order of Police, and they did not want the City to spend one dime more than necessary in overtime; that the majority of their overtime was spent in court.

Councilman Gilbert stated that he had listened to the comments; that we needed to define the work week and define shifts and look at paid time off; that if an employee was not physically working, they could use the time off to compensate; that it falls back on management; that we have been relaxed on management, mentioning not making time and one-half and putting people on salary versus the clock.

Ms. Kelley stated that we became a hybrid with the Fair Labor Standard Act; that we do pay overtime for those eligible for it.

Chairwoman Berz stated that she was used to the corporate world, too; that our time is running short and asked if we needed to do this again next week.

Councilman Rico stated that it was hard to have a one-size fits all.

Councilman Murphy wanted to know what we were spending on overtime now under our current practices with the thought that it was about \$2.7 million dollars a year; that we needed to bring this cost down and save the City money.

Chairwoman Berz stated that there was still more to go, and we need to complete this; that she would like to get permission to get this information to the Council to study over the week and discuss it again next week; that there could be \$200,000 to \$400,000 in savings, and they wanted to put back longevity pay; that longevity pay should be restored and that was their concern; that they wanted no one to lose their job and no furloughs and the longevity pay to get returned; that this would continue at 2:00 p.m. next week. The meeting adjourned at 3:00 p.m.

