



CITY OF TOPEKA

CITY COUNCIL COMMITTEE MEETING MINUTES

POLICY AND FINANCE COMMITTEE

CITY COUNCIL
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Committee: Policy and Finance

Date: May 10, 2019

Time: 9:00 A.M.

Location: 1st Floor Conference Room – Holliday Bldg 620 SE Madison

Attendance: Councilmembers Jeff Coen(Chair), Tony Emerson & Brendan Jensen, Jacque Russell (HR Director), Lisa Robertson (City Attorney), Catherine Walter (Legal)

1) Call to order

Councilmember Coen called the meeting to order. Committee members introduced themselves.

2) Approve April 29, 2019 Minutes

Councilmember Jensen made a motion to approve the April 29th meeting minutes.

Councilmember Emerson seconded the motion. Minutes were approved 3:0.

3) Continued Discussion of Personnel Code: Articles 4-7

Staff provided follow up information for questions from the April 29th meeting.

- Catherine Walter, Senior Assistant Attorney, provided copies of Resolution 7473 from 2004 which speaks to Conflict of Interest. The resolution, along with State Statute SOSI (Statement of Substantial Interest) serve as guiding pieces. One of the questions that Legal receives the most is clarification related to the receipt of gifts/services. Ms. Walter noted that receiving more than \$500 of goods and services must be reported. After this information has been reported, the Governing Body member can then vote. Lisa Robertson, City Attorney, also noted that staff had discussed the option of codifying the language into the TMC (Topeka Municipal Code). However, because state statues might change, having a one-page document that could be provided to each Governing Body member as a reference would be more advisable. Ms. Robertson noted that the challenge with codifying this language into the TMC, would be if there was a lapse in updating it. Ms. Robertson suggested continuing to have this succinct summary available that could be updated and made available as necessary.

Councilmember Jensen found the one-page “guideline sheet” that Ms. Walter provided to be very helpful and would like to have this information posted to

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the City's website. Ms. Robertson noted that this could be done. Councilmember Jensen suggested making this document an accepted policy, which would allow for it to be changed as necessary. Councilmember Emerson agreed that the information was useful and would like to see it added to the website.

- The second issue stated at the April 29th meeting was that of City Employees being required to take a leave of absence to run in local or state elections. Ms. Walter stated there was a state statute that prohibits city employees from running for city elections while on city time. All of the cities contacted prohibit city employees from running for city council or mayoral positions, and require a leave of absence or resignation during the campaign season. Some cities require a resignation. Some cities provide that an employee cannot be a candidate for an elected office that is a conflict, or is incompatible. Wyandotte County has a stricter policy noting that employees who receive federal money cannot continue in their position. The City of Topeka does not currently have this type of language but could add it. Cities included in the research were: Manhattan, Olathe, Overland Park, Wyandotte County, Wichita, and Lawrence.

Councilmember Jensen inquired about an employee who might be running for a lower seat office such as school board. Ms. Walter noted that according to current language, employees might need to take a leave of absence.

Councilmember Coen inquired about the requirements imposed by Shawnee County. Staff was unsure of what Shawnee County requires of its employees who are running for an elected position. Ms. Russell provided a few scenarios of when exceptions were made in the City. One was for an employee seeking to serve on the Seaman school board. That individual was not required to take a leave of absence from their City position was not one that was likely to be in conflict with the board position. A second was a City employee who held a management position and ran for Sheriff. That employee *did* take a leave of absence during the campaign period, continuing through the election.

Councilmember Jensen inquired about what the timeline was for when employees seeking to run for office would be required to take their leave of absence. Ms. Russell noted it would apply when the employee is actively campaigning.

- Ms. Robertson introduced the Tuition Reimbursement inquiry that was raised at the April 29th meeting and the question regarding if reimbursement would be required to be paid back to the city should the employee leave prior completing a determined number of years of service to the City.

Ms. Russell read a clause that could be added: “In the event that the employee voluntarily leaves the city within 12 months, or whatever time the Governing Body determines to be reasonable, the individual agrees to reimburse the city in full for the amount of tuition assistance that was received.” Ms. Russell noted that the employee would be required to sign acknowledgement of this requirement prior to receiving the tuition funds. Ms. Russell noted that many private employers utilize this type of language.

Councilmember Jensen noted another way to get payment back could be to have the employee forfeit any unused vacation/sick leave.

Councilmember Emerson inquired what the “nominal amount” limit was. Ms. Russell responded that the limit is one-thousand dollars (\$1,000) per calendar year based on available funding. This is consistent amongst the labor agreements as well.

4) New Business

- Personnel Code Article 4, Section 1: Classification and Pay Plan. An ARR was not adopted to cover compensation pieces, but Position Descriptions are discussed in ARR 133. The language contained in the ARR is more robust and descriptive to provide more clarification to employees and managers. Ms. Robertson indicated that she believed the Pay Plan was adopted by the City Council in 2017. Ms. Russell verified this.
- Personnel Code Article 4, Section 2(A): Salary & (B): Compensation. This language corresponds with ARR 101 Temporary Assignments, which encompasses acting and out-of-class assignments; P118 Relocation Expenses and ARR 131 Merit Increases. In ARR 101, the focus of review relates to compensation for acting assignments and out-of-class pay. For acting, it is the minimum of the grade, or 5% above current salary, whichever is greater; and for out-of-class, it is up to a 3% raise in the employee’s current salary. New in P118, relocation expenses are considered to be a form of compensation and used in limited circumstances.

Ms. Russell noted that such expenses are only applied to management-level positions and are made at the request of the Department Director. The approval is part of the consideration process by the Position Review Committee in the interest of filling the vacant position. Typically, this has been seen at the Department Director levels, and some other positions, such as Engineering, that are more difficult to fill. The relocation fees are part of the “Request to Fill” application so that it is applied toward whichever candidate is considered.

Councilmember Coen inquired as to the frequency that an employee is asked to temporarily fill a position. Ms. Russell noted that the frequency varies; however it is seen the most when a Deputy Director steps up to fill in as the Director. That individual then receives out-of-class pay to act as an Interim Director. What is most often seen is on large special projects, such as the new Utility Billing System, when employees are taken out of their regular “home” position and paid out-of-class pay to perform additional tasks. This would also be used as a professional development tool.

Councilmember Jensen inquired as to the possibility of offering an incentive for current or future employees to reside inside of the Topeka city limits. Councilmember Jensen’s proposal would be along the lines of offering one-hundred dollars (\$100) a year, up to five-hundred dollars (\$500) (or something similar) and could be applied to employees who reside in the County limits but would be willing to move into the City limits to aid in the property taxes.

Councilmember Emerson agreed with Councilmember Jensen that some sort of pay incentive would be nice. Discussion between committee members ensued regarding the topic and possible ideas for what the framework of the incentive would look like. Staff will look at a few options that may be possible.

Ms. Robertson brought the discussion back to ARR 131 Merit Increases and noted that the City has done a big push with the merit system by using new software to conduct performance evaluations. The efforts seem to be producing the results that were anticipated. ARR 131 Refers to these processes paper for easier review and interpretation.

Councilmember Emerson inquired as to the specific guidelines and standards that were used during employee evaluations to retain the integrity of the process. Ms. Russell noted that the new merit-based system was put into place in 2017 with the adoption of the new pay plan and was implemented by the Governing Body. There have since been two evaluation cycles, as well as ongoing training with supervisors, to better define what each of the values mean. Ms. Russell noted that scoring a “5” is not easy to attain, nor was it meant to be easy to attain. Department Directors have to review all of their departments’ evaluations and explain the outliers to the Review Committee. When an employee scores a “below meets” or “needs improvement” rating, a performance improvement plan for that employee is put into action with the hope being to see improved performance.

- Personnel Code Article 4, Section 2 (C)(2): Use of Private Vehicle. The corresponding policy is P104 Vehicle Use, specifically, section VII, which

specifically covers the use of private vehicles, and Section IX, covers driver safety guidelines.

- Personnel Code Article 4, Section 2(C)(3): Clothing and Cleaning Allowance. The corresponding policy which provides more specific language is P108 Taxability of Work Clothing and Uniforms.

Councilmember Coen inquired as to whether the IRS (Internal Revenue Service) allows for deduction of these expenses. Councilmember Emerson shared that he thought if clothing or tools were provided, an individual would not be able to claim those. Ms. Robertson noted that the policy states personnel must comply with the IRS guidelines. This ensures employees are working with the Administrative and Financial Services Department to follow these directives in the proper manner.

Ms. Russell noted that this policy was drafted closely with the Administrative and Financial Services Department. Ms. Russell explained that if an item is provided, it is not tax deductible. If the item is “logoed” and it is not able to be transferred into casual clothing, such as something that is easy to wear outside of work, the IRS would consider it to be taxable. However, if it is gear that is required by the employer, but will not be provided by the employer, those items could be deducted.

Councilmember Jensen inquired if there were currently any issues with the process of requiring employees to purchase certain required items. Ms. Russell stated that most required uniforms are provided. The City also seeks to better comply with the IRS regulations by not providing a large amount of “logoed” items to staff members who are not working directly in the field.

- Personnel Code Article 4, Section 2(C)(1): Professional Dues Payment and (4): Tools and Equipment. There were no corresponding ARRs or Policies attached, as these types of issues are typically covered by individual Departmental Rules and Regulations or SOPs (Standard Operating Procedures).
- Personnel Code Article 4, Section 2(C)(5): Meals. The corresponding policy is P112 Food and Beverage which contains more explicit language. For example, the language contained in 2(A) and (B) is very descriptive for how travel expenses and meals during business meetings or workshops are provided. Ms. Robertson noted that the City’s Travel Policy is even more explicit and is contained in a separate policy document.

Councilmember Jensen inquired about Per Diem. Ms. Russell noted that Per Diem is provided and is discussed in greater detail in the Travel Policy. The amount provided is based on the Federal reimbursement rate. If employees are participating in a training conference, they are required to provide a meeting agenda, which is then audited through the Administrative and Financial Services Department.

- Personnel Code Article 4, Section 3: Probationary Period. The corresponding text is ARR 132 Performance Evaluations; Probation. The language contained in this section of the Personnel Code is disjointed and difficult to follow. Staff hopes the language contained in the ARR provides a more organized and logical approach.

Councilmember Jensen inquired if tuition reimbursement is available during the probation period. Ms. Russell noted that it is not.

Councilmember Coen inquired if it was staff's intention to have specific language contained in the Personnel Code removed and replaced with the language contained in the ARRs and Policies. Ms. Robertson recommended that any text which is truly policy-driven, and a topic dealing with personnel, such as severance pay or budgetary actions, would require guidance from and approval by the Governing Body and should be codified within the TMC (Topeka Municipal Code). Any purely administrative duties, such as (for example) the travel policy or personnel evaluations, should be put into a separate document such as a Personnel Manual. All of the ARRs and Policies that are provided with excerpts from the Personnel Code are for the purpose of showing comparisons to what is currently in the Code and what has been adopted administratively within the past two decades. Topics that are of an administrative nature and are relevant/current have been addressed in these ARRs and Policies. Staff would like to see a separation between policy and administrative functions and recommends that functions of a policy nature be placed in the TMC. Ms. Robertson noted that the Personnel Code would likely not be needed if the steps above were completed.

- Personnel Code Article 4, Section 4: Hours of Employment. ARR 103 Overtime and Compensatory Time is the complementary document.

Councilmember Jensen inquired about military leave and the impact of benefits and how those employees would be effected. Ms. Russell noted that employees who go out on military leave, which is generally two weeks of annual training or deployment, have the option of continuing to pay 100% of the premium. If an employee will be gone for longer than

thirty (30) days, they will have the option of acquiring military insurance. There is also a Leave of Absence process that will be completed prior to the employee leaving. Ms. Russell continued that there are also provisions that allow employees to get back onto the City benefits plan. This will be covered in greater detail later, during discussion on in Article 7, Section 4.

- Personnel Code Article 4, Section 5: Receipt of Pay. ARR 103(5)(E), which discusses the Fair Labor Standards Act (FLSA) for non-exempt employees, contains comparable language.
- Personnel Code Article 4, Section 6: Temporary and Seasonal Employees. Corresponding language is found in ARR 129 Recruitment and Selection and ARR 119 Out of Class Pay. ARR 129 defines temporary work. Temporary employees are defined as being hired through a Temporary Service Agency. ARR 118(X) Background Checks further defines Temporary Service Agency Workers.

Councilmember Jensen inquired why the City utilizes a temporary service agency, citing the large overhead fees. Ms. Russell noted that due to some of the regulation changes following adoption of the Affordable Care Act, it has been found to be easier to comply with those standards if assignments are run through a temporary service agency because then those individuals are employees of the temporary service agency and their benefits are based on varying assignments. A bill rate is associated; however worker's compensation is also covered through the agency. Individuals who serve short stints of temporary assignments, as well as paid internships, are on the City's payroll as City of Topeka employees.

- Personnel Code Article 5, Section 1: Performance Evaluation. Comparable language is found in ARR 132 Performance Evaluations; Probation and ARR 133 Position Descriptions.

Councilmember Jensen inquired if there was a position description for Councilmembers, and noted that by perhaps having something of a similar nature posted to the City's website, it would answer questions that the public may have regarding the responsibilities of City Councilmembers. Staff noted that there currently was not.

- Personnel Code Article 5, Section 4: Appeals. Corresponding text is contained in ARR 132(5), which provides guidelines for an employee who wishes to appeal their evaluation results.

- Personnel Code Article 5, Section 5: Salary/Merit Review. Corresponding text is found in ARR 131 Merit Increases.
- Personnel Code Article 6: Promotions. Corresponding language is found in ARR 123 Promotions, Transfers, Demotions, Reassignments. The language in the ARR is much more explicit and provides more guidance to employees.

Councilmember Emerson inquired if the requirement of one year of college or two years of experience was reviewed as cumulative. Ms. Russell confirmed that under the Personnel Code, those elements would be correct. However, under the ARR, directions would point back to the position description. Ms. Russell noted that having all positions able to have combined experience along with education may not be in the City's best interest when it came to certain positions such as an Accountant. The provisions found in the ARR allow the City Manager to determine which positions absolutely need a degree requirement.

Councilmember Emerson voiced concern about replacing some position experience with degree requirements as potentially harmful and did not want to see employees with a long history and rich experience background lose out on promotions to an individual with less experience but a college degree. Ms. Russell noted that the Out-of-Class force aided in developing the skill set for individuals with the academic level but less professional experience.

Councilmember Jensen noted that some colleges will take practical experience and apply it toward college credit hours and inquired if the City was currently partnering with any of these programs. Ms. Russell noted that the City currently works with some of the local colleges: Washburn University, Rasmussen and particularly the Police Academy to apply practical experience toward college credit. Those colleges come in annually to speak about those opportunities.

- Personnel Code Article 7, Section 1: Flexible Compensation Plan. Ms. Robertson noted that the majority of the language found in this section is very outdated. ARR 106 Employee Healthcare Benefits references Flexible Spending, but also provides information on: how to qualify, eligibility requirements, premium equivalents, the Health Care Advisory Committee, steps for enrollment, and continued coverage through COBRA. The information overall is much more up to date.

Committee members and staff discussed the process of codifying and creating one single, combined personnel document.

- Personnel Code Article 7, Section 2: Holidays. Corresponding language is found in ARR 108 Holidays; which provides a bit more explanation but is fairly similar to the language in the Personnel Code.
- Personnel Code Article 7, Section 3: Vacations. Corresponding language is found in ARR 107 Vacation Leave; which discusses how hours are accrued during probation, sets out the accrual rates are, provides a chart to show the difference between eight-hour employees versus twenty-four hour employees, and carry-over.

Councilmember Jensen inquired if leave time of an entire office was covered in this section. Ms. Russell noted that it was not, but indicated that such action would be reviewed as a performance issue. Ms. Russell commented, further, that many of the bargaining units cover this topic and that most provisions are based on seniority. Ms. Robertson included an administrative perspective that most department directors or supervisors currently take the initiative to check with their employees to get an idea on the coverage situation before authorizing too much leave time. Ms. Russell noted the calendar tool that is found in the Intellitime time card application which allows directors and staff to view scheduled leave time. This assists in preventing over-authorization of leave.

- Personnel Code Article 7, Section 4(A): Sick Leave. ARR 110 Sick Leave is the corresponding administrative document.

Councilmember Jensen inquired about sick-outs and if there were any provisions to prevent such an event. Ms. Russell noted there are no such provisions. Ms. Russell provided an example of a bargaining unit threatening such an action in the past, but that was determined to be a Prohibited Practices found under the Kansas PEERA, which prevented that action from happening.

- Personnel Code Article 7, Section 4(B) Medical Disability Leave. Staff believes this is now covered by FMLA (Family Medical Leave Assistance). P107 Family Medical Leave provides a lot more information and direction for employees who may need to take an extended leave of absence. Ms. Robertson noted that Section 4 Military Family Leave covers the military component of the FMLA; but that there is a separate policy that discusses military leave.
- Personnel Code Article 7, Section 4(C) Military Leaves. Corresponding ARR 124 Military Leave discusses this topic much more thoroughly.

Councilmember Emerson inquired about the pay differential, noting that some military pay is less than what would be received for the City job. Ms. Russell noted that under ARR 124, Section 4 "Pay" defines how eighty hours of paid leave is provided annually. The rationale for eighty hours is tied to the two weeks of annual training, to hopefully off-set the lost income from the time away from their job. This form of pay continuation covers an employee until the point of long-term deployment. Councilmember Emerson noted that, in many cases, military service members are out longer than eighty hours and inquired about the process once those funds and time were exhausted. Ms. Russell noted that after eighty hours, the employee could elect to use accrued vacation and sick time to supplement their military pay, but that the paid service time is eighty hours. Councilmember Emerson would like staff to provide information on what the pay differential would be and what it would cost the City to provide long-term service pay.

- Personnel Code Article 7, Section 4(D): Court Appearance. ARR 113 Court Appearance Leave is straight forward and corresponds to the Code.

Councilmember Jensen inquired about Councilmember leave for Jury duty with regard to missing Governing Body meetings, (in the event they are sequestered). Ms. Robertson noted that there would be no perceived problem if a Councilmember served as a sequestered jury member, and that Governing Body meetings would likely occur as scheduled without the Governing Body member who was serving.

Councilmember Emerson inquired about long-term pay for employees who may be sequestered to serve on a jury for a long amount of time.

- Personnel Code Article 7, Section 4(E): Voting Time. The corresponding document is ARR 114 Voting Leave, which is pretty straight forward.

Councilmember Jensen inquired about the possibility of having employees vote via mail. Ms. Walter noted that State Law prohibits employers from mandating the manner in which an employee chooses to vote.

- Personnel Code Article 7, Section 4(F): Leave Due to Inclement Weather. P116 Declaration of Inclement Weather provides the comparative language and provides much more clarification.
- Personnel Code Article 7, Section 4(G): Emergency Leave. ARR 121 Family Crisis Leave and ARR Funeral Leave address these situations in a more specific way.

- Personnel Code Article 7, Section 4(H): Personal Leave Day. ARR 112 Personal Leave Day contains straight forward and easy to understand language. On this subject.

Councilmember Coen inquired about the history of the Personal Leave Day. Staff was unsure of the history on this.

- Personnel Code Article 7, Section 4(I): Leave of Absence Without Pay. The comparative document is ARR 120 Extended Leave of Absence.

Councilmember Jensen inquired if an extended leave of absence was commonly used by employees. Ms. Russell noted that it was not, and that employees will generally utilize the FMLA system.

- Personnel Code Article 7, Section 4(G) Emergency Leave.
- Personnel Code Article 7, Section 5: Extended Sick Leave Benefits. ARR 109 Extended Sick Leave combines language contained in these two Personnel Code sections. This speaks to employees with a terminal illness and states that it should not extend to more than one year in length. In addition to the hours provided in the provision for extended sick leave, employees who have a long-term illness that is not terminal will be eligible to receive shared leave. Many times, these leave programs will work in tandem until the Long Term Disability with KPERS would go into effect.
- Personnel Code Article 7, Section 6: Retirement Systems. Corresponding ARR 130 Retirement Systems provides much more detailed language to walk an employee through the process.

Councilmember Jensen inquired if there were any Legacy Pensions left over. Ms. Russell noted that KPERS has a Deferred Compensations program that could be a continuation of an employee's benefit system.

Ms. Robertson noted that staff would like to finish Personnel Code Articles 8 through 10 at the next meeting, (May 15) and on June 3 will address what language should be incorporated into the TMC.

5) Other Items Before the Committee

No other items.

6) Adjourn

Councilmember Coen adjourned the meeting.

11 - Policy and Finance Committee

Minutes Taken: May 10, 2019

Minutes Approved: May 15, 2019

The Policy & Finance Committee will meet next on May 15th at 9:30am in the 1st Floor Conference Room of the Holliday Building – 620 SE Madison.

Video of this meeting can be found at: https://youtu.be/K82dtg_vM7Q