



CITY OF TOPEKA

CITY COUNCIL COMMITTEE MEETING MINUTES

POLICY AND FINANCE COMMITTEE

CITY COUNCIL
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Date: June 10, 2019

Time: 3:00 P.M.

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

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

1) Call to order

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

2) Approve June 3, 2019 Minutes

Councilmember Emerson made a motion to approve the June 3, 2019 meeting minutes. Councilmember Jensen seconded the motion. Minutes were approved 3:0.

3) Review TMC Chapters 2.125 and 2.140

Lisa Robertson introduced a proposed Table of Contents for TMC Title 2. At the June 3rd meeting, Division 2 Employees, was reviewed. Ms. Robertson provided the committee with a proposed Table of Contents page. The code company suggested dividing Title 2 into divisions for ease of reference. Division 1 will cover general matters, officials and departments. Division 2 will be entitled Employees, and Division 3 will cover Boards, Commissions, and Council Committees.

Following the June 3rd, meeting, Chapter 2.105: Diversity and Inclusion was added. Ms. Robertson reminded the committee members of the information that was provided during that meeting. She then moved onto new information.

- New Chapter 2.10 - Section 2.110.070 Approval of Severance Pay. The language contained in subsection (a) speaks to requiring prior authorization of the Governing Body. The language in subsection (b) speaks to eligibility for receiving severance pay. Ms. Robertson noted that the tracking has been color coded to show the language currently found in the TMC and the language that staff is proposing to include. There are five eligibility requirements that employees must meet prior to receiving severance pay. They are:
 - The employee's position has been eliminated due to reduction in force.
 - The employee has been employed with the City for one or more continuous years of service

- The employee has not accepted a position with the City or with another governmental entity pursuant to a consolidation agreement. (Ms. Robertson provided the consolidation of the Parks and Recreation Department as an example of this requirement.)
- The employee has not accepted a transfer of employment to an entity that is assuming operational responsibility from the City. (Ms. Robertson provided an example of Friends of the Zoo (FOTZ) acquiring City employees in a public/private partnership.)
- The employee has executed an agreement and complete release of all claims against the City.

Councilmember Emerson inquired if an employee would need to meet all five of the requirements. Ms. Robertson confirmed.

Councilmember Jensen inquired about unemployment insurance, which is found in the private sector. Jacque Russell, HR Director, clarified that unemployment is separate and distinctly different from severance. Ms. Russell commented further that if a position is eliminated, and the employee does not have another position that he/she will be taking, that individual would be eligible for unemployment benefits. The State looks at how the severance is paid to determine when the unemployment reimbursement would begin.

Councilman Jensen inquired as to whether or not the City is required to pay unemployment insurance through the State in the same way as private business. Ms. Russell responded that the City is self-insured for unemployment purposes. The State invoices the City quarterly and the amount is based on any liability reports that are filed during that time. Councilmember Jensen asked for clarification regarding an employee receiving severance and unemployment. Ms. Russell noted that the State reviews the severance case and determines when to begin paying unemployment. If an employee is paid in a lump sum, the State may factor that differently than an employee who is being paid bi-weekly. The employee's unemployment eligibility would begin following the end date of receiving the State-determined severance pay. Councilmember Jensen inquired if the City receives any penalty if unemployment insurance is used. Ms. Russell replied that the City is not penalized, as the City is self-insured.

Councilmember Jensen had additional inquiries regarding the length of time that severance payments would remain in place. Ms. Robertson noted the next subsection addresses those questions. Ms. Robertson read the subsection; the language addresses the rate of severance pay in accordance with the length of time an employee was employed by the City of Topeka. Councilmember Jensen voiced concern about the need for an additional severance package if the City was already paying a State-mandated severance fee. Ms. Russell noted that the

two systems do not overlap, and that the severance pay is intended to be a benefit when a position is no longer necessary to help make the transition smoother for the individual. The State will determine when, and in what amount, the unemployment rate would be for an individual following the end of his/her severance pay.

Councilmember Emerson inquired if this would be included in the calculation for retirement eligibility and benefits. Ms. Russell noted that severance does not count toward retirement eligibility.

Ms. Robertson noted that a second piece to the payment part states that eligible employees hired prior to January 1, 2011 are entitled to receive severance according to the schedule noted. Ms. Robertson read that language, and the sections that followed, regarding severance pay. Ms. Robertson suggested referring to this information in the eligibility subsection.

Councilmember Jensen inquired as to how this would apply to a voluntary buy-out retirement incentive. Ms. Russell noted severance pay would not apply. When the city offered a retirement incentive several years ago, the incentive was to continue city healthcare contributions for an extended period of time. Employees who were eligible for KPERS retirement on a full or partial retirement basis could take advantage of this incentive.

Accounting Upon Separation from Employment. Staff is suggesting the removal of this section from the TMC and including it in the Personnel Manual, as it is administrative in nature.

- New Chapter 2.115 - Bargaining Unit. This new chapter was included to provide easier navigation (by placing language related to bargaining units and collective bargaining in the same chapter). Staff is not proposing substantive changes, as this language was reviewed and updated not too long ago.
- New Chapter 2.120 - Civil Services for Police Officers and Firefighters. Staff is not proposing changes at the current time. The language contained in this chapter relates to the processes of recruitment, discipline and other matters that are specific to the Police and Fire Departments.
- New Chapter 2.125 - Fireman's Relief Association. Ms. Robertson stated she is less familiar with this program and has sought out assistance from other staff members to obtain historical background. Mary Feighny, Deputy City Attorney, is the liaison to the board; however, her role has been limited to receiving specific types of information from the head of the association. Ms. Robertson's understanding is that language in this chapter discusses excess insurance payments, which are placed into a fund to assist other firefighters. State Law,

KSA 40-1701, addresses this type of association. Staff will likely recommend repealing this section and referencing the state statute, (noting that as the state law changes the City's process will be changed).

- New Chapter 2.130 - Benefits. Article I would discuss the 1939 retirement system. Ms. Robertson did not feel this section was relevant anymore and could be removed; although Staff and interns are performing historical research to determine if there is a need to retain this information in the TMC as stated (or if it can be removed).
 - Article II - Old Age and Survivors Insurance. Staff believes this provision is referencing Social Security. There are also many references made to the Department of Civil Service. Staff is researching whether a State Department of Civil Service still exists. Ms. Robertson commented the department name may have changed to the Department of Labor.
 - Article III - Worker's Compensation. Ms. Robertson noted that the first section of this article "Injury on the Job" could be moved to the Personnel Manual, as it discusses light duty, which is a topic that is administrative in nature. As to the second section of this Article, "Rate of Assessment", the City has been self-insured since 1976. The language can be updated accordingly. Finally, the third section of this Article, "Annual Self-Insurance Permit Required", is mostly covered by State law. However, language addressing the reason for this permit would be updated and included. "Claims for Compensation, Service of Claims, Defensive Fund", should probably be moved to Title 3, which contains the various financial provisions of the TMC. A separate section could be added to 3.35 with a general title of "Claims" with separate divisions set up to differentiate between Tort Claims and Work Comp Claims.
 - Article IV - Police and Fire Pension Funds. Catherine Walter, Senior Assistant City Attorney, conducted historical research into this article and found a case titled *Singer vs. City of Topeka*, which indicates both of these funds were discontinued effective 1979; however the language was never removed from the TMC. In 1979, Police and Fire Pension Funds were both in existence; however, they were rolled into KP&F, a division of the KPERS system. Councilmember Jensen inquired about the facts of the case. Ms. Walter responded that KPERS had a 7% contribution rate, and the City tried to increase their rate to match the KPERS rate for the Police and Fire pension funds. The Court denied that action, stating that it was a unilateral change to the contract. Ms.

Walter noted that the facts of the case are not pertinent but the historical information is interesting and helpful. Ms. Robertson suggested removing Article IV, based on the fact that these two funds no longer exist.

- Ms. Robertson noted that staff has not yet worked through Article V “Police Benefit Account” or Article VI “Health Insurance”. Staff will bring those articles, and historical follow-up information to the next meeting.

Ms. Robertson stated that an email was sent to “All COT” on Wednesday (June 5, 2019), to inform all employees that the Personnel Manual had been posted to the City’s Intranet. The 64 separate policies and ARRs would be available through the end of June. After that time, only the Personnel Manual, which also contains Articles VIII, IX, and X from the Personnel Code (Reduction in Force, Discipline, and Grievances) would be available.

Shawn Maiseberger, Human Resources Manager, presented information through the City of Topeka website to show where the Personnel Manual could be located and used.

Councilmember Jensen inquired if Title 2, Division 3 (Boards, Commissions, Councils, and Committees) would be reviewed at the Governing Body meeting. Ms. Robertson clarified that at this point in time, only Title 2, Division 2 (Employees) would be presented; after which, Staff would begin a new project update to Title 2, Division 3.

4) Other Items Before the Committee

Councilmember Coen would like to review term limits for Councilmembers. Staff will find historical information regarding this topic to bring to the committee.

5) Adjourn

Councilmember Coen adjourned the meeting.

Video of this meeting can be found at: <https://youtu.be/xi5pxpeaQt0>