

**SALARY COMMITTEE
MEETING MINUTES
MONDAY, FEBRUARY 23RD, 2015**

The Salary Committee met Monday, February 23rd, 2015 at 6:30 PM in the Council Chambers at the Knisely Centre. In attendance were Salary Committeepersons: Mr. Dan Lanzer, Alternate Ms. Sandy Cox and Chairperson Mr. John Zucal and Salary Committeeperson Ms. Winnie Walker was absent from tonight's meeting.

Guests were Mayor David Johnson, Law Director Marvin Fete, Service Director James Zucal, Safety Director Greg Popham, President of Council Sam Hitchcock, Council Clerk Patti McKay, Councilperson Mrs. Cheryl Ramos, Councilperson Darrin Lautenschleger, Councilperson Rob Maurer, Amy Gilland Assistant Service Director, Jim Parrish, Mark Cox, Nancy Johnson, Aaron Hixenbaugh, Ammee May, Dean Holland, and Bob Lipinski.

Salary Committee Chairperson, John Zucal called the meeting to order at 6:30 PM.

The purpose of the meeting was to discuss three separate agenda items:

1. Commendation for outgoing Park Board Member Mr. William Bichsel III
2. Vacation pay for City Employees
3. Proposed Positions by Mayor Johnson

The Committee came to an agreement and would like to move forward on Proposed Resolution 3-2015 commending William Bichsel III for his years of service to the New Philadelphia Park Board.

The Committee expressed appreciation for Mr. Bichsel's years of service and stated that he was an active member, a good guy to work with, thoughtful and supportive.

The Mayor said he was a valuable member of the Park Board.

Ms. Cox made the motion to move forward with Resolution 3-2015

Mr. Lanzer seconded the motion

The Committee voted 3-0 to have Resolution 3-2015

put on the agenda for the March 9th, 2015 Council Meeting.

The second issue was to continue to look at vacation pay, sick leave, and how we want to handle that.

The Proposed Ordinance 23-2014, the piece of legislation that was before Council did not reflect the changes that were requested. The Committee and Administration were concerned with the language that was in this document.

Comment from Ms Cox in regard to sick leave and vacation time that was put in the Ordinance 23-2014.

"With sick leave you should be vested in the City for ten years before you go paying anybody anything."

Mr. Lanzer:

I don't feel it would be fair for someone to come to the City with two years of sick leave and we foot the bill for all the built up sick leave.

He felt we should try to reach a middle ground.

He referenced Mr. Zucal's suggestion.

Somebody bringing over 120 days that is the way the legislation would read right now.

Over a ten year time period you could begin to accrue 1/10 of whatever you brought over

If you had 120 days, year one you would have 12 in year two you would add an additional 12

Just looking for some common ground we could maybe work with.

Comments from the Law Director:

Proposed Ordinance 23-2014 is the same except for the following:

The Law Director substituted based upon all the conversations we've had:

The section on accrued hours for vacation time

The Law Director took that language out of what was being done at Union Hospital and substituted that in. (That was a big significant change)

The Law Director also made vacation time transferable, which maybe you don't want to do.

Sick leave is transferable

Vacation time is not under the Ohio Revised Code

Those were the 2 major differences.

Comment for Committee Chair John Zucal:

Mr. Hixenbaugh is present and is looking for an answer to his vacation time scenario. On the sick leave, can you elaborate a little on the Ohio Revised Code and what it does say in regard to the transfer of sick leave?

Some of us here tonight are concerned with someone transferring over a 120 hours of sick leave and working for the City for 18 months and getting the entire sick leave portion when they really have not had too much commitment to the City and moved elsewhere. Could you give your thoughts on that and the Ohio Revised Code?

Comments from the Law Director:

Sick Leave is transferable it is mandatorily transferable it is pursuant to RC 124.39 at the time of retirement from active service of a political subdivision with 10 or more years of service with the state any political subdivision and/or any combination thereof based on the 124.39 and 124.38 it is mandatory that it is transferable.

The issue is how much of that do you get when you transfer in. If the ordinance is silent on it you can make your ordinance say whatever you want. The Law Director says he has been having ongoing conversations with Matt Baker. Mr. Baker is supposed to get the Law Director a Case Law on it. The Law Director's research shows one thing, Mr. Baker is telling the Law Director there is a case out there that says something different. The Law Director said he needs something concrete.

Comment for Committee Chair John Zucal:

We have been dealing with this for a long time. The Committee needs the final recommendation. as to what we want to do as far as vacation leave and sick leave, so we can go yea or nay. We have discussed it, Mr. Hixenbaugh is looking for a response to that. His situation is now engrained within the policy that we are looking at. Mr. Hixenbaugh is looking for a response as to what he believes is owed to him for Vacation time. I don't want to continue to drag this out.

Comments from the Law Director:

We are talking about 2 different things
Sick Leave is transferable
Vacation time is not transferable.

Anyone who left in 2014 the question is whether or not they should be paid for unused vacation time. 39-97 does not permit it. Nobody since the Law Director has been here has been paid except for the former Chief of Police has been paid for unused vacation time. The Auditor checked records back to 1997 to the present as to what people left and who got what.

Law Director was asked very early on (2012) to clarify the policy for being paid for sick leave time. The Law Director said based upon 39-97 you can't do it.

It is common with the general public to believe that is something you earned and that is something you should get compensated for. It was also unfair because our Bargaining Employees are able to do that but the Non Bargaining Unit isn't. The way Law Director has it drafted now is taken from our handbook, it is not something that is new. The only thing the Law Director did was add to it to make it transferable from one job to another. If this Committee tells me they don't want to do that the Law Director said he did not have any problem taking that out. That was not in there originally maybe that is a misunderstanding I had with the Administration. What this does is make the policy what it is in most places; which is to pay someone for their unused vacation time.

Comment for Committee Chair John Zucal:

The vacation does say part of the provision that allows employees to be paid at the time of their separation, separation of employment, retirement, quitting, or being terminated in any of those incidences the employee is entitled to vacation time that they earned.

The fact is, that is a piece of this that is in with legislation and also addresses sick leave. We can't pass a portion of Amended Ordinance 23-2014 without passing it in its entirety.

Law Director said not necessarily, we have the ability as a Committee to take the other part out.

Comment for Committee Chair John Zucal:

"That is what we don't want to do. The minutes reflect clearly from the time we started, we wanted to pass a piece of legislation in its entirety, and that we didn't want to deal with individuals on a case by case basis. We wanted to say yea or nay to vacation time."

Comment from Law Director:

That is correct the basis of this was to deal with vacation time. It was the hope that we could get to point A to point B from 39-97 to the new handbook. We needed a bridge we thought the other Hand Book (2007) That was being handed out to everyone would do the trick. Administration informed the Law Director that it doesn't cover a lot of tracks. It is going to have to be a little bit more solid if we are going to do that.

Comment for Committee Chair John Zucal:

Where do we stand with the newest version of the handbook?

Comment from the Mayor:

"We are still working on it."

Comment from Law Director:

"I'm very comfortable with the vacation portion, which is why this legislation originally started Unless you want to modify it and take out the transferable language.

I'm not comfortable with the language on the sick leave at this point and time.

I had a conversation with Matt Baker today we have been going back and forth with emails.

I felt very comfortable at the last committee meeting when I addressed the Mayor and the Service Director.

This is what my research shows:

It was indicated to me that Matt Baker had a difference of opinion

He believes in regard to sick leave yes it is transferable

But you can limit it to one fourth their value if you have a Collective Bargaining Agreement

That is similar and he says there is a Case Law out there that says that.

The Law Director says he has not seen the Case Law and he asked Mr. Baker to send it to him.

Matt Baker said the ordinance can't be more limiting than the Ohio Revised Code was.

It appears that is what the old ordinance does.

It forces somebody to have to work here for ten years before they can kick in on the sick leave portion.

And that is not what the Ohio Revised Code said.

My research says if you transfer in that the City is responsible for what is brought in particularly based upon as to what the Ohio Revised Code said.

Comment for Committee Chair John Zucal:

Does the Ohio Revised Code say employees of a city entity or government entity?

We need to make sure that is clarified this does not apply to private entity.

It is transferable from municipality, county, village, city and state.

The Committee wants the legislation to say this is how we handle vacation time.

You can give more than the Ohio Revised Code says, you cannot give less.

The Law Director Comment:

The Ohio Revised Code says the unused balance of employee's accumulative sick leave up to a maximum sick leave accumulation permitted in the public agency of which the employee transfers.

based upon that and you look at what our ordinance says you are looking at someone with 30 years us being stuck with the bill for the bulk of that.

Comment for Committee Chair John Zucal:

Someone in a private firm would lose all sick leave and begin from ground zero that is what we did. Or is there a provision that could be put in place not all of that would transfer

The Law Director Comment:

You would have to lay out a table that says this much transfers whether you come from a public or private.

The Ohio Revised Code will only deal with public which is a quarter of the time.

You could say you accumulate 1/10 of your time and over ten years you would have the opportunity to accrue what was your sick leave up to a maximum amount. I used the scenario

Before for private

I had a 120 days my first year I get 12 I stay for longevity the reward, the second year I get 24 and three years I get 36 I'm not bringing over the full 120 and then leaving after one year and then getting

120 of sick leave paid by the City. I think maybe there is some common ground that allows us to attract people from the private industry who may want to work and would be a good hire.
This would be a major change to this legislation if you wanted to include the private
We would have to modify that

Comment from the Mayor:

That is not what the Administration wants.

The Law Director Comment:

39-97 says upon retirement or death of an employee may convert his/her accumulative sick leave to cash using the following
Employee with 25 years or more of continuous years of service to the City of New Philadelphia shall be paid in cash 75% of his/her valued account.
Employee with 20 years but less than 25 years of continuous service to the City of New Philadelphia shall be paid 50% of his/her valued account
Employee with 15 years but less than 20 years of continuous service to the City of New Philadelphia shall be paid of 37½% of his/her valued account
Employee with 10 years but less than 15 years of continuous service to the City of New Philadelphia shall be paid 25% of his/her valued account
Given that this sick leave is transferable automatically by law our ordinance allows you to have up to that amount. Are they limited to ¼ or do they get the full 30 years because that is what our ordinance says. That is where we are.

The Mayor's Comment:

It also says they have to be vested for 10 years.

Committee Chair Mr. John Zucal:

Mr. Zucal said that is something that we would want to keep as part of that legislation.

Comment from Committeeperson Ms. Cox:

It also says credit for prior public service employees who were previously employed by another public agency will be permitted to transfer sick leave upon employment with the City of New Philadelphia. But they would have to be here for ten years for any of that to transfer over.

Comment from Service Director Mr. Jim Zucal:

That is the way I see it.
It clearly says with the City of New Philadelphia.

Under that 124.039 the unused sick leave State Code it says a political subdivision may adopt a policy
Allowing an employee to receive payment for more than ¼.
We always use the ¼.

Committee Chair Mr. John Zucal:

The Administration and the Members of the Committee are in complete agreement as to what we would like to see. On sick time.

Comment from the Mayor:

You can do vacation time the way you want. But you have to decide how to pay it.
Do you pay after their anniversary?
Law Director you want the same thing that 39-97 says right now but after 10 years you can get more than ¼.

When a person transfers in what are they transferring in with?
I think it says if you have 25% plus what they accrue
My understanding of that is and I think Matt Baker is going to clarify that.

My understanding is they get ¼ of a maximum of 940 hours.
That is the way the State Law Reads.

Comment from the Committee Chair Mr. John Zucal:

Mr. John Zucal informed the Law Director that right now we move forward with what we just proposed this evening.
If Matt Baker can produce something down the road I would be glad to revisit.
We have an Employee Handbook that is not finished we could amend it for that Employee Handbook if we need to. We have got to get something done with that right now.

The 39-97, 2007 Handbook, and the new Employee Handbook; none of these are answering our concerns. Let's just get that done as part of 23-2014 agreed upon legislation from the Committee and Administration.

Comment from the Law Director:

What language do you want in there?

Do you want it to say the same thing that it says now that after ten years vest or what?

Comment from the Committee Chair Mr. John Zucal:

Yes,

"You are vested after ten years of service and everything else complies with the Ohio Revised Code."

That is exactly what we are doing nothing more or nothing less than that.

Comment from the Service Director:

"What the City has to be cautious of

Most of our people that come here come from other governmental agencies.

They usually have water license or wastewater license so they are carried from somewhere else the fear is and I have expressed this to the Law Director is hypothetically you could have an individual come over and work 2 weeks and quit and we are on the hook."

In my own research I have looked at it, talked to the Mayor, and met with the Law Director some of that legal definition of $\frac{1}{4}$ of a total of 940. So after years $\frac{1}{4}$ of their total. There are people out there that are carrying 3 and 4 thousand hours and that is more than fair."

Comment from the Committee person Ms. Cox:

I have a problem with somebody coming from another entity and that entity did not pay and we are on the hook for it.

Comment from the Committee Chair Mr. John Zucal:

There is no reason for us to pick up all of that.

Comment from the Service Director:

They come here because we typically pay more.

Comment from the Law Director:

So you are saying if it transfers in limit it to $\frac{1}{4}$.

And from 10 years on they get whatever that is.

Comment from the Committee Chair Mr. John Zucal:

$\frac{1}{4}$ of the maximum allocation by the City of New Philadelphia not that they are bringing over more hours but a different entity.

Comment from the Service Director:

After 10 years they are vested and they get $\frac{1}{4}$ of their total.

If you spend 10 years at the City you can carry some over.

Comment from the Law Director:

To be paid in cash $\frac{1}{4}$ the value the employees accrued but unused sick leave credit. Payments should be based on the employees rate of pay at the time of retirement and eliminates all sick leave credit accrued but unused by the employee at the time payment is made.

The Ohio Revised Code. 124. 39

Vacation Time

Comment from the Committee person Ms. Cox:

I don't like what we have with the union hospital

It completely changes what we had.

If they earned it they are entitled to it. (If they work here.)

Example an employee started January 1, 2014 that is his anniversary dated

January 1, 2015 you would have earned 2 weeks of unused vacation time.

You worked until January 2, 2015 and quit you would not be entitled to another 2 weeks even though you worked into the next year, you did not work the full year. You would be paid for the amount of vacation time that was earned.

The next issue is Aaron Hixenbaugh.

We can pull that out and make a decision on his vacation time.

The Law Director said we can do it the same way we did with the Chiefs

That is legal.

The Mayor said that was retirement that is different.

If they are owed any vacation under our rules we pay it.

If not we don't.

Aaron said his last pay stub said we still owe him 136 hours of vacation.

When they said they have not done that for anyone else; they allow the employees to spend their vacation to spend their vacation before they retire.

I asked to take that vacation and was denied.

You asked to take vacation after the date you resigned.

Letter said he would work for the City through the 19th

I was owed that vacation for working for the year of 2014 at his position.

The general consensus of this Council is to pay people for any vacation they earned up to the time they are separated from the City for whatever reason. You take what is left over and pay them it needs to be made uniform across the board.

The Law Director had not seen the letter from Mr. Hixenbaugh for his resignation or what dates he requested off.

The Law Director said it is not his decision to say what Mr. Hixenbaugh is entitled.

Mr. Zucal said he don't want to be in violation of any agreement or arrangement that was made.

The Law Director said If Council wants to pay him for his unused vacation time all we have to do is pass legislation identical to the Police Chief saying Mr. Hixenbaugh is entitled to xx amount of hours and paid x amount of dollars.

Mr. Zucal requested the Law Director review the letter from Mr. Hixenbaugh.

have a conversation with Administration make sure that the Law Director and the Administration is on the same page. Mr. Zucal requested that we need a legal opinion as to what we owe or do not owe Mr. Hixenbaugh.

The question is when did he resign his position, was there a request for vacation time or accumulated vacation after that.

The time frame there is interpreted 2 different ways.

What is recommended as to what we can do to be fair and what is the recommendation?

The second meeting in March we can make a decision as to what we are willing to pay.

So on the 23rd of March 2015 we can vote to get it on the legislation agenda and passed on first reading.

We have discussed this for 6 months.

We still have a handbook coming up Mr. Zucal believes it will allow us to amend that when it is said in done.

The Law Director:

What he did previously was take the language out of the handbook and put it in.

Mr. Zucal:

I think we all understand what we want tonight from the sick leave portion of this we are in complete agreement.

2 separate pieces of legislation vacation where we are accruing the hours

Jim pointed out that is in the legislation piece and clean up the rest

What we owe Mr. Hixenbaugh act upon that tonight to. Ordinance 23-2014 we would be doing just what we did with the Chief making a different situation addressing it completely separate what we owe him.

voting by as a Committee of Council as to what we want to do what is owed to Mr. Hixenbaugh

But not within the framework of Ordinance 23-2014.

Comment from the Mayor:

We have more than one person 2 for sure.

Anyone who left the City in 2014 should be treated the same. The legislation would handle it the same.

It was determined that it was not retroactive.

We are paying people for what they earned.

Legislation will deal with future ones and we will deal with anyone in 2014 as we did the Chief.
That Ordinance 23-2014 clean it up get rid of the accrued hours and not make it retroactive do legislation. It is similar to what we have done for the Former Chief of Police and one other
What is workable between the Law Director and Administration in the meantime you might have another piece of legislation in regard to whoever the other party is.
Let's get them all done and get it over with

Percentage hours after the anniversary that person begins to accrue hours. Toward their additional benefit whatever they accrue. We want it done to be able to gain.
That is what they have earned from employment. We don't want the lump sum vacation to be included two days after the anniversary it says I'm entitled to two weeks more of vacation they leave the next day and say you owe me for two weeks of vacation they leave the next day and say you owe me for two weeks of vacation no you did not earn that what is the percentage accrued hours that would have been gains when you take the two weeks and divide it up over the length of that employment years that is what I earned that is what I'm entitled to.

Comment from the Mayor:

"We do have other information that we are expecting under public request which might make a difference."

H.R PERSON

Provide conversation with a member of the committee any where you would have that outlined in the budget we will move on that in the meeting in March. The budget is going to be reviewed this week.

Mr. Lanzer:

it is in the proposal we would like to see where it falls in the budget we will move from there.

Mrs. Ramos mentioned she would like to see a formal Organizational Chart put in place think

We can work on that down the road. I don't think we can get that done at this point in time.

Comment from Committee Chair Mr. John Zucal:

"We have moved forward with the discussion and cooperation with Administration and are asking the Law Director to draft the appropriate legislation to address the issues of both vacation time and sick leave time.

We also asked him to look separately maybe potentially for at least two different employee issues in regard to the payment of vacation time, with one of those being Mr. Hixenbaugh we will be looking forward to the Law Director having that prepared for the March 23rd, 2015 meeting.

We would like to move and enact all pieces of legislation that evening we will be looking to suspend rules and move forward with that."

"One of the issues that came up at the very end of the meeting was the Mayor has been asking for some Proposed personnel moves and ways to do that.

Mr. Lanzer requested the Mayor include that in the Annual Budget.

Mayor as the Administrative lead assured us that is what he will do.

Include those types of things like the raise into the annual budget during the Budget Hearings;

That is where we will discuss those matters

We look forward to having that included in the budget and moving forward based on the Budget Hearings as to where we need to go with that."

Chair John Zucal thanked the Mayor for taking that administrative lead.

The meeting was adjourned at 7:26 PM.

Respectfully Submitted,

John Zucal, Chairperson
Salary Committee