
The Washington City Council met in a continued session on Monday, August 27, 2012 at 5:30 pm in the City Council Chambers at the Municipal Building. Present were: Archie Jennings, Mayor; Bobby Roberson, Mayor Pro tem; Doug Mercer, Councilman; Edward Moultrie, Councilman; William Pitt, Councilman; Richard Brooks, Councilman; Josh Kay, City Manager; Cynthia S. Bennett, City Clerk and Franz Holscher, City Attorney.

Also present were: Matt Rauschenbach, Administrative Services Director/C.F.O.; Stacy Drakeford, Interim Fire & Police Services Director; Robbie Rose, Fire Chief; Allen Lewis, Public Works Director; Keith Hardt, Utilities Director; John Rodman, Planning Director; Kristi Hardison, Parks and Recreation Manager; Susan Hodges, Human Resource Director; Gloria Moore, Library Director; Lynn Lewis, Tourism Director and David Carraway, IT Department and Mike Voss, Washington Daily News.

Mayor Jennings called the meeting to order and Councilman Moultrie delivered the invocation.

APPROVAL/AMENDMENTS TO AGENDA

Councilman Pitt requested removing item # 3 – Discussion of motorized wheelchairs on public streets.

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council approved the agenda as amended.

DISCUSSION: OF PROPOSED CHANGES TO THE PERSONNEL POLICY

City Manager, Josh Kay reminded Council of the draft Personnel Policy revision presented in June at the Committee of the Whole meeting for review.

Personnel Policy DRAFT June, 2012 - Substantive Changes

Article I. Section 2. Add statement regarding At-Will Employment

Article I. Section 6. Provide more detail regarding role & responsibility of HR Director. Some responsibilities moved from City Manager Roles & Responsibilities in previous section.

Article I. Section 10. Probationary Employee – revised to reflect 12 months probationary period.

Article III. Section 1. Clarification that all changes to the Pay Plan shall be approved by City Council.

Article III. Section 4. Probationary Raises

- New hires are only eligible for a probationary raise if hired to salary rate below minimum
- At the probationary review, the employee may also be eligible for a performance pay increase
- The combined probationary and performance pay increase shall not exceed 5%.

Article III. Section 5. Performance Pay – added provision that an employee cannot receive both merit and job maturity increase in the same fiscal year and if eligible for both, would receive the one that would provide the greatest increase. **Concern with salary compression. Recommend providing Performance Pay for Part-time employees. Pg. 9**

Article III. Section 7. Effect of Promotions, Demotions etc. on Salary –Demotion – clarify that the only time a salary can be retained in demotion is to avoid RIF.

Article III. Section 10. Pay for Part-time and Temporary Work – Added the following existing practice to policy - *Part-time employees who are members of the North Carolina Local Governmental Employees' Retirement System (LGERS) shall paid at least at the minimum rate of the established salary range for the classification after twelve months of employment.*

Article III. Section 11. Overtime Pay Provisions

- **Discontinue counting holidays as work time for purposes of determining overtime pay. Loss of reward for employees working extended hours that occur during holiday weeks of which they have no control. Pg. 12**

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- Eliminate 1.5 comp time for Exempt non department heads
 - Emphasize that comp time for exempt employees is not guaranteed to be taken and ends without compensation upon separation from employment.
 - Change from quarterly clearing to end of year clearing of comp time for exempt employees and allow City manager to authorize carry over through the end of January of the following year.

Article III. Section 14. Call Back Pay

- Add policy for non exempt employee responding to telephone or computer call – minimum 30 minutes
- Eliminate provision for mandatory meetings scheduled in advance to be paid at OT (1.5) pay
- Eliminate call back pay policy for exempt employees rather refer back to the Overtime Policy

Article III. Section 15. Holiday Premium Pay (New section)

- Previously included under Article VI. Holidays & Leave.
- Adds provision that holiday leave earned for working on a holiday must be taken within 3 months or paid.
- Clarifies the current practice of paying any non-compensated holidays upon termination of employment and paying part-time and temporary employees 1.5 when they are work on a holiday.

Article III. Section 16. Pay for Acting Assignment in a Higher Classification (temporary promotion) – New

Article III. Section 17. Longevity Pay – change wording from shall to may if appropriated in City budget Concern that it is more likely to be targeted as a budget cut whereas it should be a part of compensation / benefits package; would rather see a provision added that only employees with 5 years of full-time service are eligible with current employees with less than 5 years being grandfathered. **Pg. 15**

Article IV. Section 3. Recruitment and Application

- Added the following: *In rare situations because of emergency conditions, avoidance of reduction –in –force, high turnover, etc., the City may hire or promote without advertising jobs, upon approval of the City Manager.*
- Added provision for option to post internally before advertising to the public consistent with current practice

Article IV. Section 5. Probationary Period

- Probationary period changed to 12 months for all new hires
- Eliminate probationary period for promoted employees Concern that promoted employees will not be eligible for probationary raise. **Pg. 18**

Article V. Section 7. Outside Employment

- Added notation of conflict of interest where undue absences are created
- Clarified what is considered outside employment, such as consulting, etc. Concern was expressed that more clarification was needed. **Pg. 21-22**
- Added requirement for annual update and approval
- Prohibit outside employment activities during City FMLA and Workers Comp leave Definitely needs legal opinion and concern expressed by staff with fairness and management of this provision. **Pg. 21-22**

Article V. Section 8. Limitation of Employment of Relatives – eliminated City Clerk & cohabitive relationships

Article V. Section 10. Residency Requirement – Reference to City Code

Article V. Section 11. Travel Time and Expenses

- Added more specific details / reference to travel policy

Article V. Section 13. Use of City-Owned Vehicles – Creates two categories of employees driving vehicles home:

- Non Emergency Personnel
- Emergency Personnel

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- Add provision that at no time shall an employee living more than 20 road miles of the City limits be allowed to drive a vehicle home. (consistent with Residency Code) *Suggest change from “City limits” to the “center of the City which is the intersection of Market and 5th Streets” Pg. 25*

Article V. Section 14. City Provided Cellular Telephone / Electronic Mobile Devices- New

Article V. Section 15. Internet, E-Mail, Telephone, and Other Communication Systems - New

Article VI. Section 1 Holidays

- Updated Fire Dept. holidays to include 9 – administrative oversight when Veterans Day was added.
- Eliminated holiday pay for part-time employees Pg. 29

Article VI. Sections 2 & 3 Vacation Leave & Sick Leave

- Reorganized considerably
- Removed provision that an employee is not eligible to use vacation and/or sick leave during the first 6 months of initial employment.
- Defined time frame for accrual of leave – 15th of month
- Defined terms for transfer in and out of sick leave and transfer out of vacation leave consistent with current practice.
- Defined terms of reinstatement with re-employment. An employee who separates from employment with the City and is subsequently rehired within three years shall have his or her unused or non transferred sick leave reinstated.
- Provided provision that the City Manager may authorize substitution of comp leave for the requirement to use 40 hours of vacation leave each calendar year. *Suggest eliminating this provision (5) entirely. Pg. 32*
- Added clarification that holiday and compensation time shall be used before vacation leave.

Article VI. Section 4. Shared Leave

- Added to personnel policy instead of “free standing”
- Deleted normal maternity as a non qualifying medical condition
- Added prolonged medical condition of the employees spouse, child, or parent (including in-law and step relationships) as qualifying condition

Article VI. Section 5. Family & Medical Leave – updated in accordance with current law

Article VI. Section 6. Military Family & Medical Leave – *New* in accordance with current law

Article VI. Section 7. Leave Without Pay – *New*

Article VII. Section 7. Law Enforcement Special Separation Allowance - updated based on revisions to GS 143-166

Article VII. Section 9. Changed Separation Gift to Retiree Separation gift

Article VIII. Section 1. Types of Separation (a) Resignation - policy for negotiated resignation - authorizes severance consideration

“The City Manager may negotiate a resignation with an employee when it is determined to be in the best interest of the City. Such negotiated resignation may include a severance package consisting of a combination of salary, benefits and/or accumulated leave (vacation, compensatory, etc.).

Article VIII. Section 2. Reduction in Force – policy revised and added to Personnel Policy instead of separate/free standing policy

Article XI. Unsatisfactory Job Performance & Detrimental Personal Conduct – restructured

- Disciplinary suspension for Job Performance generally not to exceed 3 days or 24 hours for shift personnel (except for exempt personnel)
- No pre-disciplinary conference for demotion or suspension; pre-dismissal conference only
- City Manager approves any suspension
- Updated descriptions of detrimental personal conduct

Article X. Grievance Procedure and Adverse Action Appeal – basically re-written

- Extended response time to 10 days
- Added procedure for Department Heads and other employee situations in which the City Manager had significant involvement in determining disciplinary action

Article XI. Section 1. Public Information – updated based on revisions to GS 160-168A.42

Updated 8/20/12

The draft revision was presented to department heads and supervisors at the supervisor's quarterly update and staff received feedback from employees. Mr. Kay noted the memo provided for Council contains seven areas of the feedback addressed by our employees. Mr. Kay stated staff is seeking some guidance on these seven items of concern:

(Memo)

Background

City Council was presented with a draft revision of the City's Personnel Manual at its June 25, 2012 Committee of the Whole meeting. At this meeting, City Council brought up a few areas to be discussed in more detail. Additionally, the revisions were presented to our employees where additional questions or concerns were raised.

The information below represents the areas that were highlighted by both sets of groups. With this information is provided some further information and, where appropriate, recommendations are made.

If I have omitted any areas that you would like to further discuss, please let me know as soon as possible. It is my assumption that all other areas are agreeable and do not need additional discussion.

Sections that need more discussion

1. Article III. Section 5 – Performance Pay (page 9)

- a. A recommendation to include possible merit increases for part-time employees. This benefit would only be available for those part-time employees that are in a regularly scheduled position and only implemented after an annual appraisal.
- b. Concerns were raised from employees about the loss of possibility to receive job maturity and merit increase within the same fiscal year.

2. Article III. Section 11 – Overtime Pay Provisions (page 12)

- a. There is a concern among the employees and supervisors that eliminating counting holidays as work time for the purposes of determining overtime pay would diminish workplace morale and would impact workplace performance.

3. Article III. Section 17 – Longevity Pay (page 15)

- a. City Council requested discussion to change the wording from "may" back to "shall" in order to guarantee longevity pay.
- b. Some Council members discussed the possibility of paying longevity pay after a set number of years (i.e. "Employees shall receive longevity pay beginning at their fifth anniversary with the City of Washington.")

4. Article IV. Section 5 – Probationary Period (page 18)

- a. Concerns were raised that promoted employees would not be eligible for a probationary raise.

5. Article V. Section 7 – Outside Employment (page 21-22)

- a. There is a need to further define "outside employment" – i.e. is owning rental houses considered outside employment; is "clerical" work permitted for "manual labor" employees that are limited due to a worker's compensation claim, etc...

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- b. Further legal review is needed to determine how this section is written and/or enforceable.

6. Article V. Section 13 – Use of City-Owned Vehicles (page 25)

- a. Council members recommended using a physical address to measure the 20-road miles – either use City Hall or Intersection of Market & 5th Street (where all City addresses originate)
- b. It was suggested by employees to increase the distance from 20 miles to 30 miles to increase potential applicant pool for positions (reference to City Code and Article V. Section 10)

7. Article VI. Section 2 – Vacation Leave (page 32)

- a. It is recommended to eliminate the requirement that all employees take at least 40 hours of accrued vacation leave per year (Article VI. Section 2(c)(5)).

Council provided the following guidance of the seven items of concern:

1a – By consensus of Council – merit for part-time employees. The majority of our part-time employees are now at the minimum hourly rate.

1b – Staff will make a recommendation and bring back to City Council. Mayor Jennings requested including examples of how the policy will play out and cited some of the examples they would like to see. The merit system puts the responsibility on the department head and employees know what is expected of them (meets expectation or exceeds expectation).

2a – To be consistent for all employees, Mayor Jennings and members of City Council stated to give general/clear guidance and let staff make a recommendation to that guidance. (Clarification of note: Council by consensus agreed to give general guidance to staff on this matter, once staff is clear on the guidance, staff will make a recommendation in accordance with Council’s guidance.)

3a – Councilman Brooks recommended changing the wording from “may” back to “shall” and Mayor Pro tem Roberson recommended new hire longevity pay start on the 5th anniversary (longevity pay will build up from 1st thru 4th and receive pay on 5th year – a vesting period) years all current employees are grandfathered in. Recommendations to leave in “shall” carried 4-1 with Councilman Mercer voting against and the recommendations to be vested 5 years for longevity pay carried 5-0.

4a – Promoted employees not in probationary status – leave as is in the policy (employees promoted within will not be at a disadvantage).

5a – Outside employment - need legal definition/counsel/review of what outside employment is and to see how this section can be enforceable.

6a & b – Council directed staff to use City Hall for address (102 East 2nd Street) of vehicle usage if using a city-owned vehicle. Councilman Mercer recommended changing the language from 20 road miles to 10 road miles on page 25 of the drafted manual Article V. Section 13(g). Mayor Jennings directed Mr. Kay to discuss with department heads what impact the miles (10, 20, 30 miles) would have on employees and affect our business. 6b discussion will be addressed at another date because it isn’t in the personnel manual (residency requirement and is a follow on discussion with employees).

7a – Consensus of Council to eliminate the requirement of all employees take at least 40 hours of accrued vacation leave per year (Article VI. Section 2 (c)(5)).

Mr. Kay noted staff would follow-up on the items that require more information and report back to Council for further discussion.

EXTENSION OF MEETING

By motion of Councilman Mercer, seconded by Mayor Pro tem Roberson, Council extended the meeting until 7:30 pm.

DISCUSSION: OF OFF-SITE CITY COUNCIL MEETINGS

Councilman Pitt suggested conducting some council meetings at places other than City Hall (the Municipal Building). Councilman Pitt felt that conducting such meetings would be a step toward enhancing open government (public housing, Civic Center etc.) He cited most meetings would be less intimidating than formal Council meetings and give the public and elected officials better one-on-one time. Also, Councilman Pitt requested Council to consider not dressing as formally for the “off-site” meetings. Mayor Jennings, Councilman Brooks and Councilman Moultrie prefer to wear business attire (agrees it needs to be businesslike and respectful of the City) at Council meetings but have no problem conducting some Council meetings at other locations in the City. Councilman Brooks likes the idea of “off-site” meetings providing more open government. Councilman Brooks felt that people would open up more in an informal setting.

City Manager, Josh Kay stated he would survey facilities in the City that would meet the requirements (space needs, audio-visual equipment and electric) to be able to host a Council meeting and provide Council with a list of facilities that meet those requirements and schedule for “off-site” meetings.

CLOSED SESSION – UNDER § NCGS 143-318.11(a)(6) PERSONNEL

By motion of Councilman Pitt, seconded by Mayor Pro tem Roberson, Council agreed to enter closed session under § NCGS 143-318.11(a)(6) Personnel at 7:00 PM.

By motion of Councilman Moultrie, seconded by Councilman Brooks, Council agreed to come out of Closed Session at 7:14 pm.

UPDATES AND FYI – ITEMS FROM MEMBER OF COUNCIL

Councilman Brooks requested an update on Iron Creek at the next Council meeting and Mayor Jennings suggested Mr. Kay make that a portion of his Friday update. Mayor Pro tem Roberson shared he was also receiving calls on Iron Creek.

Councilman Pitt stated the North Carolina League of Municipalities Annual Conference is the same date as the Committee of the Whole in October.

By motion of Councilman Pitt, seconded by Councilman Brooks, Council agreed to cancel the Committee of the Whole meeting on October 27, 2012 due to the League Annual Conference.

ADJOURN – UNTIL MONDAY, SEPTEMBER 10, 2012 AT 4:30 PM IN THE COUNCIL CHAMBERS AT THE MUNICIPAL BUILDING

By motion of Mayor Pro tem Roberson, seconded by Councilman Moultrie, Council adjourned the meeting at 7:15 pm until Monday, September 10, 2012 at 4:30 pm in the Council Chambers at the Municipal Building.

Cynthia S. Bennett
City Clerk, CMC