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## **EMPLOYEE RELATIONS COMMITTEE MEETING**

Tuesday, March 31, 2009

Council Chambers

PRESENT: Alds. Krol, Ewerdt, Walsh, Donegan - 4

ALSO PRESENT: J. Archambo, City Admin.; B. Aldana, HR Dir./Asst. City Atty.

Ald. Krol as Vice-chair called the meeting to order at 7:42 p.m.

### **Ordinance amending Section 2.59.030 of the Code limiting eligibility for salary increases (for adoption)**

Ms. Aldana said that this item is a referral from the committee.

The Chair asked anyone if they wanted to speak for or against the amendment.

Sgt. Chris Fox, Police Department, said he has several concerns about this amendment as it is currently stated. He felt that there are already rules in place to deal with unsatisfactory job performance. The officer's could be reprimanded, written up, demoted, have unpaid days off or fired for unsatisfactory performance. He said he feels that if they are reprimanded by their supervisor and then the city doesn't give them their cost of living increase that there is a double layer of discipline. Sgt. Fox said the supervisors should be enforcing the rules already in place. He further stated that by being denied a cost of living increase one year, and that money adds up every year forward for the next 20 years of good service, someone could lose thousands of dollars because of this.

Sgt. Fox met with administration who told them that once the employee was back to satisfactory performance, the cost of living would be put back into place. He said there is nothing in the wording of the amendment that states this. He questioned if this is an administrative function, who will control this?

Sgt. Fox wondered how this ordinance affects the state statute. He also wondered why the original amendment proposed to Employee Relations had an appeal process and the committee chose to leave it out. He said if there is no appeal process, there should be a check and balance, with an opportunity to discuss with someone other than the person making the decision whether to give the increase or not.

Chief Weber said he thinks if you are going to deny a police officer a raise, that there is not a court around that would say this person is not being disciplined. He said referring to State Statute 62.13, technically the police and fire commission are the only ones that can do this. This ordinance may be applicable to the average non-represented employee but not to the police and fire departments.

Sgt. Jim Mastrocola, Police Department agreed that at times there are people who don't perform to state standards and are disciplined by the chief. If this automatically ranks them unsatisfactorily he feels they are being penalized twice. He said a lot of details in the ordinance need to be cleaned up.

Sgt. Fox questioned how the evaluation process would work. He didn't think the review process on the anniversary date and the cost of living increase on the first pay period after January 1 makes a lot of sense. For example, if someone had an unsatisfactory review in June and had already received their

increase, where is the penalty? Would there be a deduction made after the fact? He felt this is an unworkable plan that the cost of living increase would always be out of step.

Ms. Aldana said she doesn't think that not receiving a step increase violates State Statute 62.13. She said there is a specific pay subsection which says the council is authorized to set the pay. She didn't think it would violate the authority of the police and fire commission.

Ald. Krol asked if there in an ordinance regarding discipline. Ms. Aldana cited State Statute 62.13 and if the Chief issues discipline, reduction in rank, or termination it could involve the police and fire commission if appealed. Ms. Aldana said discipline as defined does not encompass holding an across the board increase in salary.

Chief Weber disagreed and said anytime you deny someone a pay raise that would be a discipline. He felt an employee would appeal to the police and fire commission and thinks they may prevail.

Sgt. Fox commented that if the city were to say the budget is tight and they were not paying increases would be one thing. But not getting an increase based on discipline they feel you are being penalized twice.

Chief Weber clarified for the committee that he feels if an employee is a poor performer it is the job of the supervisor to get them back working satisfactorily. If not then it would be a discipline issue and they have a plan already in place for suspensions, demotions, firing, etc. He said they have the state statute to abide by. The police must be made aware of the rule violation. The Chief said it might be appropriate but thinks is prohibited by law.

Ms. Aldana said the step increase by ordinance for non-represented employees has been linked to satisfactory performance and they have not actively exercised the ordinance. She said this was put into place by Carlson Dettman which lends itself to credibility, so tying to performance is not a violation of State Statute 62.13. She said they are revising the review process so the evaluation will lend itself to how the ordinance was set up, either satisfactory or unsatisfactory. Ms. Aldana said she has not made a legal opinion on this. She said whether it is police, fire or other employee they will be mindful of any other laws that would be applicable.

Further discussion ensued by the committee. Ald. Walsh said he would like to see a further study. The issue of retroactive or prospective depending on your anniversary date needs to be worked out. He doesn't think there is a huge sense of urgency and requests more information.

Ald. Ewerdt asked why it was not spelled out in the amendment that an employee can re-earn the step increase lost. Mr. Archambo said that some of these issues still needed to be worked out. He said whatever duration the performance was unsatisfactory there would be a cost of living adjustment. The City Administrator said he is hearing a lot of concern about good performers. The city is looking at it a little differently and looking at unsatisfactory performance. Mr. Archambo said there needs to be a tool available to address those employees who are beyond the step system. Mr. Archambo said that the denial of the cost of living is a lower level of discipline. He would be concerned with an employee who has an unsatisfactory performance and still receives a cost of living increase.

Moved by Ald. Ewerdt, seconded by Ald. Walsh  
to hold this item until the next committee meeting  
and asked that administration provide additional information.

Ald. Donegan said if his colleagues want to hold this for further discussion he respects that. He said with respect to this issue he doesn't understand the hesitation to give the city management, the tools to withhold a raise if the performance is unsatisfactory. He said the city is burdened by the cost of employment and compensation expense and it is really becoming a burden to control. We need to hold our management accountable for improved efficiencies and to not give them that kind of discretion is counter productive.

Ald. Walsh commented that he would like to see more information with supporting evidence.

Chief Weber said he is in favor to do this in the right way for the right reason. He would be interested in any management tool that would be available.

Ald. Krol said regarding the review process of having the review on the employee anniversary date and the cost of living increase given at different times doesn't seem to be in sync. He said we have to make sure our employees that are performing well are rewarded and that we don't support mediocrity.

Ms. Aldana asked if this item could be held for two cycles as she is unavailable April 14<sup>th</sup>.

Ald. Ewerdt accepted an amendment to the motion, to hold this item until April 28<sup>th</sup> and asked that administration provide further information. Ayes: 4

**Ordinance amending Section 2.58.021 relating to Executive Leave (for adoption)**

Moved by Ald. Donegan, seconded by Ald. Ewerdt to recommend adoption of an ordinance amending Section 2.58.021 of the Municipal Code relating to Executive Leave. Ayes: 4

The meeting adjourned at 8:31 p.m.

Carla A. Ledesma, City Clerk  
City of Wauwatosa

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