



MINUTES OF THE PERSONNEL COMMITTEE

TUESDAY, FEBRUARY 23, 2021, 4:30 PM
IMMEDIATELY FOLLOWING FINANCE
Virtual Meeting. Public may join via Zoom.

A. ZOOM MEETING INFORMATION.

I. This item contains documents which provide call in information and instructions for the Zoom meeting.

B. ROLL CALL.

I. Members: Ald. Bill Galvin, Ald. Barbara Dorff, Ald. Veronica Corpus-Dax, Ald. Brian Johnson

Present: Bill Galvin, Barbara Dorff, Veronica Corpus-Dax, Brian Johnson.

Others Present: Ald. Lynn Gerlach, Ald. Mark Steuer, Public Works Director Steve Grenier, Transit Director Patty Kiewiz, Police Chief Andrew Smith, Fire Chief David Litton, City Attorney Vanessa Chavez, Finance Director Diana Ellenbecker, Assistant City Attorney Lindsay Mather, Police Commander Kevin Warych, Detective Brad Biller, HR Operations Manager Melanie Falk, HR Generalist Jen Smits and others.

C. APPROVAL OF THE AGENDA.

Moved by Ald. Barbara Dorff, seconded by Ald. Brian Johnson to approve. Motion carried.

Yes- Barbara Dorff, Bill Galvin, Veronica Corpus-Dax, Brian Johnson, No- None, Abstain- None

D. APPROVAL OF MINUTES.

1. Approval of the minutes from February 9, 2021.

Moved by Ald. Brian Johnson, seconded by Ald. Veronica Corpus-Dax to approve. Motion carried.
Yes- Barbara Dorff, Bill Galvin, Veronica Corpus-Dax, Brian Johnson, No- None, Abstain- None

E. REGULAR BUSINESS.

1. Consideration with possible action on the request to fill the following replacement positions and all subsequent vacancies resulting from internal transfers.

a. Parking Maintenance Technician (PMT) - Public Works

Moved by Ald. Barbara Dorff, seconded by Ald. Veronica Corpus-Dax to approve. Motion carried.
Yes- Barbara Dorff, Bill Galvin, Veronica Corpus-Dax, Brian Johnson, No- None, Abstain- None

2. Consideration with possible action to discuss and evaluate the expiration date for the City's Policy on COVID-19 Paid Sick Leave for each employee group as the COVID-19 vaccine becomes available to City employees.

Moved by Ald. Bill Galvin, seconded by Ald. Barbara Dorff to receive and place on file.

Moved by Ald. Brian Johnson, seconded by Ald. Barbara Dorff to hold this item until the April 13, 2021 Personnel Committee meeting. Motion carried.

Yes- Barbara Dorff, Bill Galvin, Veronica Corpus-Dax, Brian Johnson, No- None, Abstain- None

3. Consideration with possible action on grievance #20-005 filed by the Green Bay Professional Police Association regarding the removal of an officer from the K-9 Unit.

The Committee may convene in closed session pursuant to Section 19.85(1)(a), Wis. Stats., for purposes of deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body. The Committee will thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to take action on items discussed in closed session, if appropriate, and to consider the remainder of the agenda.

Moved by Ald. Barbara Dorff, seconded by Ald. Veronica Corpus-Dax to go into closed session. Motion carried.

Yes- Barbara Dorff, Bill Galvin, Veronica Corpus-Dax, Brian Johnson, No- None, Abstain- None

Moved by Ald. Barbara Dorff, seconded by Ald. Veronica Corpus-Dax to return to open session. Motion carried.

Yes- Barbara Dorff, Bill Galvin, Veronica Corpus-Dax, Brian Johnson, No- None, Abstain- None

Moved by Ald. Barbara Dorff, seconded by Ald. Veronica Corpus-Dax to deny the grievance and adopt the findings of fact and conclusions of law. Motion carried.

Yes- Barbara Dorff, Bill Galvin, Veronica Corpus-Dax, Brian Johnson, No- None, Abstain- None

F. INFORMATIONAL.

1. Report of routine personnel actions for regular employees.

Moved by Ald. Veronica Corpus-Dax, seconded by Ald. Barbara Dorff to receive and place on file. Motion carried.

Yes- Barbara Dorff, Bill Galvin, Veronica Corpus-Dax, Brian Johnson, No- None, Abstain- None

2. Next meeting date: March 9, 2021

G. ADJOURNMENT.

Moved by Ald. Barbara Dorff, seconded by Ald. Veronica Corpus-Dax to adjourn. Motion carried.

Yes- Barbara Dorff, Bill Galvin, Veronica Corpus-Dax, Brian Johnson, No- None, Abstain- None

VERBATIM MINUTES

- This is the personnel committee for the city of Green Bay at 4:41 PM. And we will start out with a roll call. Alder Dorff.

- Here.

- Alder Corpus-Dax

- Here

- Alder Johnson
- Here
- And Alder Galvin's here. I'll entertain a motion on the agenda
- Move to approve.
- Second.
- I've a motion and a tie for second. And all those in favor, say aye.
- Aye.
- Aye.
- Aye. And then a motion on the minutes.
- Move to approve.
- Second.
- All right, a motion and a second. All those in favor, say aye.
- Aye.
- Aye.
- Aye.
- And then, consideration with possible action on the request to fill the following replacement position resulting from internal transfers. Does anyone have any questions for staff?
- I move to approve.
- All right.
- Second.
- Okay. I have a motion to approve and a second. All those in favor, say aye.
- Aye.
- Aye.
- Aye.
- And that passes unanimously. Item number two. Consideration with possible action to discuss and evaluate the expiration date for the city's policy on COVID-19 paid sick leave for each employee group as the COVID-19 vaccine becomes available to city employees. That was my communication. And I've had conversations with the HR Director Faulds about this. And, and basically my concern was if units are being offered the vaccine and they don't want to take advantage of it. Currently the city has a policy that anyone that is made ill by COVID,

or has to be quarantined and miss work, would be compensated with funds. Not having to use their own personal off time sick time, vacation time, or anything else like that. And so I was concerned. If individuals were declining to get the vaccine, you know, how does that play out and how's that fair to everyone else and the taxpayers? But in talking to Director Faulds, this entire thing expires on April. So, for us to, big discussion about it and the back and forth and then counsel and everything else just to have it expire anyway, in two weeks after that it seems like not a good use of our time. So I'll make a motion, if I can, to receive and place on file.

- I'll second that.

- All right.

- Question on that. And so it expires on April 1st but, correct me if I'm wrong, the federal government is no longer subsidizing those payments. We made this decision that we would cover that locally. So I appreciate that receive and place on file. The question is though, is staff planning to bring this back to us to have a conversation about extending at a later date?

- My conversation with Director Faulds was, no.

- Mmhm, that is correct.

- That when it expires, it expires.

- And that's why I'm asking the question. Is that a conversation we want to have?

- Well, I, I guess, yes. I'm not sure if we do or we don't, but Alder Dorff.

- I also had the conversation, the same one, and he mentioned that Bill had been talking to him too and I don't feel we, we need to extend it. I suppose we could talk about it, but there's no money. There's no funding to extend it. And what their doing... What?

- I mean, if an employee becomes sick or injured due to their work, there's workers' compensation for that lost disposable. You know, to actually compensate them for the loss of funds. If they become ill outside of a job, they have upwards of 135 sick days and upwards of 60 vacation days. Plus at least with some of the units they have another a hundred hours they can accumulate of personal off time. So it seems like most of the employees should be pretty adequately covered, should anything come up. And that's why, you know I understand everyone has their own reasons for not getting the vaccine and things like that but I just couldn't see us continuing to fund something like that. Director Faulds said that with the bargaining unit, so it would have to become a bargaining issue to have it extended. So, I mean, that's not a guarantee either. So I just felt it was best to make note of it and then receive and place it on file.

- But I... Sorry.

- Go ahead.

- I hear what you're saying Alder Johnson because you think maybe I was interested in it, Alder Galvin was interested in it, that we went ahead and did our research. You're thinking maybe other council members would be...

- Not only that, but it just seems to me that we're almost making conflicting positions here. On one hand, we're saying Hey, we're going to let this expire because maybe the risk is sort of going down, or whatever it might be. But on the other hand, we continue to leave city hall closed because we say that there is a risk. So, I mean, it would be nice to kind of reconcile some of those conversations. Trying to say, rather than receiving

and placing this on file. I would almost prefer to say, Hey let's give it a couple more weeks. Let's actually determine what this has cost us. Let's maybe have a better public discussion about what the ongoing risks are, rather than just completely letting it expire and dismissing the merits of an extension.

- I guess part of what I looked at was that my proposal, if it went through, would be that as a unit. So police, fire, DPW, whatever, as the vaccine becomes available to them, it would expire at that time when they had ample opportunity to get the vaccine and if they chose not to it would expire at that time. And so police and fire have had it made available to them. And, and they're getting the vaccine as we speak, but at the same time it would cover the other units that haven't had access to that vaccine yet. If you want a study done and if you want to bring this up in a more public forum about the pluses and minuses of us funding something like this out of the city coffers instead of having them use their own personal off time, I'll entertain a motion. Absolutely.

- You know, and I don't think, study might be a little bit of an overstatement, right? I would like to think that that's a pretty easy report that we could, that we could generate is, Hey how many people have the city taxpayers had to cover on this versus the sick bank?

- Well, the thing you don't think about, or a lot of people don't think about is, how many of these employees, that we had to cover, did we have to cover because it was job-related or because they just ended up sick and because of inadequate back tracing, we don't know how they got sick or we do know how they got sick, but they were still covered because of the policy that was in place? And so I think it goes a little bit beyond just saying it costs us X amount of dollars to cover all these individuals. Was it because they were sick? Or was it because they were exposed and had to be quarantined? How many times did certain individuals have to be quarantined over this period of time? Was it just a one and out deal or did we have people up there for multiple times? You know, and were we covering medical bills and things like that that maybe necessarily weren't covered. So, it would require Director Ellenbecker's office to come up with a more finite, I think, determination of just blanket costs X amount of dollars total. I'd want to know, if we're going to get into it, then I want to know exactly how it went. What departments were using it and that. Just to see where we do stand, if we do want to extend it, or if we don't want to extend it. Alder Dorff.

- And to your point, Alder Galvin, they can use their own sick leave and they can use their own vacation time. It's not like they are losing their salary because of this. They just need to make the choice then to use their own, which is a benefit, but one that should be used when one is sick. One should use their sick leave time, when they're sick.

- You know, obviously there are individuals that may not have enough sick time or vacation time. But in the past the city has been very generous and allowing other employees, fellow employees, to donate time to help them compensate that so they're not losing their salary.

- So is the presumption here that by April 1st, all of ours will have had an opportunity to be vaccinated? Because again we made this decision to put it to April 1st, right?

- Point of clarification, committee, it's April 30th, that this leave ends on.

- Okay.

- Oh I'm sorry. Okay, I misunderstood.

- Okay.

- So is that, Alder Galvin, to your point then is that the presumption is that all of our staff will have had that opportunity for vaccination?

- That's my personal understanding, based on what I've been reading in the news and hearing on the news, is that even our fire and police were getting the vaccine over two weeks before they were supposed to be allocated it. Because some organizations that were giving it out were having extra doses at the end of the day. And instead of throwing it away they were calling first responders to come in and get vaccinated. And as the chief said, "We've got 225 city employees where the vaccine was made available to them and only 135 are taking advantage of it. I mean, there's various reasons that people have for not getting the vaccine. Which I can certainly understand why some people might have hesitation getting it. As to how it's going to pertain to other city employees, You know, I mean, obviously over half the state has been vaccinated already and those with medical conditions are being taken care of. So it's my understanding that as this progresses more and more of this vaccine is being made available. Teachers and such are being vaccinated starting March 1st. And so I would think that by April 30th, a good chunk of our population is going to have had this made available to them. Will the 21 year old guy at DPW in really good shape have it available to him yet? I don't know. I couldn't say. Alder Gerlach.

- I just, I wonder if there might be a different presumption here. And that is that the federal government presumed that the city and other cities might be over overtaxed with sick leave because of COVID. And so this money was made available and the money, when the funding runs out it might be safe to presume that we weathered the storm. We used the federal money as we needed to. And that now, as you said, Alder Galvin, the sick leave, the personal sick leave can pick up the tab, whether people choose to be vaccinated or not. I mean, I guess I'm asking perhaps was the original presumption that it might have been overwhelming and we've passed the worst of it? We don't know who's going to be vaccinated by the end of April. Maybe they won't all have had an opportunity to be vaccinated. But isn't it kind of safe to assume that as the federal funding is ending the crisis is also passing and that it can be accommodated by the regular policies and procedures.

- Well, Alder Gerlach, you have a lot of faith in Congress.

- We're not talking about Congress I'm talking about, you know, the, I really,

- That's what I mean Congress.

- You've got to explain that to me.

- Because Congress would be authorizing the federal funding.

- Right. And, Alder Gerlach, I don't know. I know initially yes, those funds were made available to help municipalities and government bodies weather the storm of their employees becoming ill and or having to avoid illness by going into a quarantine period. And no one knew back when that money was made available and obviously since then. I'm not going to comment on our politics at a federal level and some of the decisions that were being made and not made and as to why they were being made. But as my understanding is the latest CARES act money that was passed. I don't believe there was any money in it for municipalities to help out with employees that are made ill or become sick or have to go into quarantine. I don't know why that was or wasn't included. We could guess all day. I guess we just have to do what we think is best for our employees but also for the citizens of Green Bay. And I think my concern was if we're already budgeting money for sick days and vacation days and off time, I couldn't see why we would have to budget more money so they didn't have to use that when they became ill. And obviously, like I said before, anyone that gets injured on duty, which I would think if someone that got sick from COVID on-duty, that that would be a pretty good reason to apply for workman's compensation. Which then reimburses that income lost.

- So if I may, I would perhaps like to suggest that rather than dispensing of this today if it would be agreeable to the committee perhaps to hold this until our first meeting in April. So that way, by that time we'll actually have facts.

- Okay

- Because I think what I'm hearing today is we presume this is the case. We assume that this will happen. And if those assumptions bear out, well this'll be an easy thing to just simply receive and place in file in April. If those assumptions don't bear out then we have an opportunity to not see this benefit lapse that if I'm not mistaken, we unanimously supported. So it would be nice for us to at least have facts instead of assumptions to evaluate at that meeting in April.

- Okay.

- Can we hear from Captain Mark?

- Yeah.

- Oh is he raising his hand? I thought it was just waving.

- Is that what the yellow hand thing is up there, I thought he was just high fiving us.

- Commander, commander. Yeah, go ahead.

- Well, thank you. Alder Johnson kind of just said what I was going to say. You know, the numbers will tell, and it's not been very you know, I'll speak for the police department. The numbers are not that high and we are we are doing very well. So the numbers will tell and my message or my recommendation is let's readdress this in April. Because if I learned nothing in 2020, what is happening today, it could be totally completely different in two weeks or in a week. And we need to address or respond to what is occurring in April, not at what is happening today. So Alder Johnson said what the rest I wanted to say.

- Okay. Alder Dorff.

- I think no matter what this would come up when it expired anyway, wouldn't it? We'd have to, it's automatically in company, but it wouldn't, I mean, I'll second Brian, Alder Johnson's motion, definitely. To take it up at our first meeting in April. But I think when the expiration date came up I would have thought it would have come to council anyway, but maybe not.

- For the bargaining units, my understanding with talking to the Director Faulds today was that the bargaining units complained before that they weren't notified properly. That when it was going to expire back in 2020. What was it? Late fall, early winter of 2020 this was supposed to expire. That's when we decided to continue making payments out of our own pocket. And so, it's up to the bargaining units to request to bargain for this benefit. For the non-union employees, it would be up to the city to decide if they wanted to represent them and also extend this benefit to them. So April 30th, it would have just expired. If no one brought it up, April 30th it's done. So I guess, in a way, this also gives them notice. That if they want to reach out to the city and ask to open up negotiations about something like that then they should do that if they want to extend it. But I think having information in early April would certainly give us a better idea. I mean, we'll know what the inoculation rate is. So that's almost six weeks from now by that first meeting in April. And I think have some serious numbers, some good numbers on the inoculation rate and who's eligible. And if we can get the numbers from finance on what we spent and how it was spent, and it'll help us make a determination at that time, if we want to pursue it or not. So I'm okay with holding it until the first meeting of April.

- That'd be April the 13th.

- Okay.

- So that would be an official motion if that's what you're looking for I would offer up that motion.

- Okay.

- And I seconded it.

- All right, and I just want to make sure that the finance understands I'm looking for detail. I just don't want a number of what was spent. I'd like to know what we spent out of the CARES Act and what we spent out of city coffers. And how it breaks down by department and what it was used for, if that's possible. I don't know if anyone's here from finance anymore.

- Yeah. Our office, Alder Galvin, our office has run some preliminary numbers from January 1st of this year to present date.

- Okay.

- So we've all we've already got that process started. And just for informational purposes we've had 18 total employees use this extended benefit. To a tune of approximately \$18,000 that the city has spent on those leaves.

- The only thing I would jump in and, Melanie if that's okay, that's just on the leave that doesn't include any benefits. And in most cases there's overtime that then, if someone's out sick, then somebody else has to fill in and then there's overtime to go with that.

- Right. That's just the cost of the salaries for the leave.

- And I guess I'm not super interested in the overtime. The overtime is there, regardless if they're using sick time or federal money or anything else like that. But yeah, if we can break down the department and was it because of quarantine, was it because someone was sick, do we have people that were, and we don't need names and we don't want names, but is there like a certain shift of an organization that seems to be getting sick more often? Cause that would also be a concern, but yeah. So if we could get that information for that April 13th meeting. So I have a motion, I have a second.

- Aye.

- Aye.

- Okay. And that passes unanimously. Item number three, Consideration with possible action on a grievance #20-005 filed by the Green Bay Professional regarding the removal of an officer from the K-9 unit.

- We go into closed session?

- Yes.

- Alder Galvin before we do that, I, if you wouldn't mind.

- Okay.

- It's really short, it's really short.

- I know, I just got to pull up my email cause I didn't get it, cause I didn't look.

- I did it just during the meeting. It was my fault.

- Yeah. Oh, okay okay. I thought maybe I'm really starting to lose it. Let me log in. All right. Oh, there it is. Okay. Here's the script. We are now on item three consideration with possible action on the officer Matthew Lynch regarding his removal from the K-9 unit. This grievance is before the personnel committee meeting at this time after being continued at the January 26, 2021 meeting. This is a quasi-judicial matter. The committee is in receipt of the party submissions. Does either party wish to make arguments in support of their written submissions. And that would be for the city. Does the city wish to make arguments in support of the written submissions?

- No, sir.

- Okay. And then for the bargaining unit. Does the bargaining unit wish to make oral arguments in support of their submission? Do we have anyone here from the bargaining unit? Detective Biller?

- I believe the expectation of both parties was that they would not be offering arguments but we do just want to offer them the opportunity.

- Sure.

- I see Detective Biller is here, but he's muted. Chief, do you have his phone number? Can you text him real quick? Just in case he stepped out. No, I see he's unmuted. So, is he there or did someone unmute him?

- No. Alderman Galvin. We have nothing.

- Okay. All right. Thank you. All right, so both parties have declined an opportunity to make oral arguments in support of their submissions. To ensure that this hearing proceeds in an orderly fashion, I will describe the process that will be filed. Does any member of the personnel committee have any questions for either party?

- No.

- Hear nothing, I'm going to assume that's no. If not, I will now entertain a motion to go into closed session to deliberate.

- So moved.

- Second.

- Second. All those in favor, say aye.

- Aye.

- Aye.

- I'll read the...

- If you would, please.

- Okay. The committee may convene in closed session pursuant to section 19.85 a, Wisconsin statutes, for the purposes of deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body. The committee will thereafter reconvene in open session pursuant to section 19.85, Wisconsin statutes, to take action on items discussed in closed session, if appropriate, and to consider the remainder of the agenda.

- All right. Okay. We are in closed session recording.

- Great. I move that we go back in open session.
- Second.
- All those in favor, say aye.
- Aye.
- Aye.
- And I would ask the parties involved if I can just give them the highlights of our findings and conclusions or would they like the whole citation read?
- Highlights are fine for me.
- Okay. Detective Biller?
- Highlights are fine with us also.
- Alright. Under a liberal interpretation of the labor agreement this grievance is properly before the committee. Officer Lynch has not offered any direct evidence of retaliation. Officer Lynch has alleged a prima facie case of retaliation claiming that the timing of the letter coincides with his engagement in protected activity. Chief Smith has articulated a legitimate non-discriminatory reason for his employment decision. Officer Lynch has not met his burden of proving that the preferred reason was pretextual. There are no allegations of discrimination on a basis covered by section 2.2 in Wisconsin statutes. A copy of this will be sent to both parties at a date to be probably tomorrow or the day after. Alright, I'll entertain a motion.
- I move that we deny the grievance and adopt the findings of fact and conclusions of law.
- Second.
- Second.
- All those in favor, say aye.
- Aye.
- Aye.
- Aye. And that passes unanimously. Onto the next item.
- Okay. We've moved to receive and place on file. The report of routine personnel actions.
- Okay. Cause I just lost my site.
- Okay, it's report of routine personal actions for regular employees.
- All right. So does anyone have any questions for staff on that?
- No.
- No? Okay. I'll entertain a motion.

- Motion to receive and place on file.
- Second.
- Alright. All those in favor, say aye.
- Aye.
- Aye.
- Aye. And I guess I'll entertain a motion to end the meeting.
- The next meeting date is March 9th, 2021. That's the last item on the agenda.
- Okay, now we can motion.
- I move to adjourn.
- Motion to adjourn.
- Second.
- Are you yawning, or do you need a second?
- I need a second, yes. This is going downhill rapidly. All right. All those in favor, say aye.
- Aye.
- Aye.