

TOWN AND VILLAGE PERSONNEL POLICY COMMITTEE MEETING MINUTES
JOHNSON MUNICIPAL BUILDING
TUESDAY, NOVEMBER 3, 2015

Present: Scott Meyer, Gordy Smith, Bob Sweetser, Nat Kinney (5:30), Eric Osgood, Duncan Hastings, Sandy Miller, Rosemary Audibert, Jan Perkins, Troy Dolan

Note: All votes taken are unanimous unless otherwise noted.

1. *Call to Order*

Eric and Gordy called the meeting to order at 5:08.

2. *Changes to Proposed Agenda*

No changes were suggested. Gordy noted that before the meeting started there was a discussion about the level of detail that should be included in this committee's meeting minutes and it was agreed that they should be similar to the selectboard and trustee board minutes.

3. *Discuss Reasons for the Committee's Formation*

Gordy discussed some of the village's concerns. He said the majority of trustees would like CTO to be lost if not used. But they don't want to see any changes to the increases in CTO after 5, 10, 15, 20, or 25 years of employment. We could consider the possibility of carrying over 40 hours and using it in the next 12 months. If the committee agrees, the trustees would like to look into the feasibility and cost of short-term disability. They want to make sure no one is left with nothing before long-term disability starts. Employees pay a 10% match in health insurance. Quite a few other places require employees to pay 15 or 20%. Gordy would like to see a nepotism clause in the policy relating to relationships, supervisors, etc.

Bob said he agrees with that list. Scott agreed that it is representative of what the trustees want. He feels the CTO phrasing is a little confusing. In most jobs he has had there has been a cap on vacation time and it is "use or lose," with ample warning given to the employee. He personally thinks the sick leave bank should not be capped, but he doesn't feel it should be paid out upon retirement. Regarding the 10% match for health insurance, he doesn't have a grasp on what the cost is to taxpayers so he is reluctant to comment.

Eric said the selectboard felt some reluctance to open this back up, but agreed that it has probably been long enough since the policy was developed that it is time to look at it again and see if anything should be changed. We know some things have changed since the policy was first adopted and so some cleanup needs to be done. The town had a couple of employees that retired, with a lot of CTO time and a significant payout. He is not sure if when we built the personnel policy we ever envisioned people building up that much time. The selectboard has talked about considering a call-in policy, which the town does not have now. The selectboard needs to look at comp time and how it is managed. That is being done internally.

Eric said the current policy was created by a committee similar to this one. At the time, the town and village had separate personnel policies, which were quite different. The committee tried to keep the best of both. That was when the CTO provision was developed. Neither the town nor the village had combined time off before that.

Duncan said he will try to be open-minded, candid and honest, but he is both an employee and a person charged with administering the policy. He did not participate in employee selection of employee reps to the committee. He handed out a synopsis of what happened in 2003-4, when this current policy was developed to try to combine the personnel policies of the town and village. That was the first attempt at developing a personnel policy that dealt with grievances, discipline, hours, etc. The committee started looking at CTO, which was not necessarily embraced by employees at first. They took the best from each existing policy and employees didn't lose anything. We need to decide what aspects of the policy we want to look at. One thing that needs to be done is that the policy needs to be modified to reflect the change to separate town and village administrators. Sandy said now that there are separate administrators there are questions that need to be addressed such as who gives approval if a joint employee wants time off. Or, added Duncan, if who deals with a grievance or discipline issue for a joint employee.

Gordy suggested that the parts of the policy that relate to things boards need to know for budget development should be addressed first, then maybe after the holidays the committee could look at other aspects.

Eric said the selectboard did not have time to come up with a mission statement or objectives for this committee. The board charged him and Nat to ask the committee about its objectives and mission with the idea that the proposed objectives and mission would be brought back to both boards for their approval.

Duncan said the current policy says the trustees and selectboard will meet annually and decide what the insurance benefits will be, so Gordy's question about health insurance can be addressed within the current policy. The boards can make changes, but whatever is done must be consistent with the provisions of the Affordable Care Act.

Sandy said the Cadillac tax is going to be coming in a couple of years and we might want to start planning for that if it is going to apply to us. It is a 40% tax the employer pays on plans over a specified annual maximum. There are different limits for single person, two person and family insurance.

Rosemary said when we first started with CTO the boards encouraged employees to keep some time in their banks so we wouldn't have to buy a short-term disability policy. Duncan said that has worked out well. Rosemary said it amounts to employee-funded short-term disability. She would be curious to know how much that has saved the town and village over the last 13 years. Sandy said when we get a quote on short-term disability we can do an analysis of how much it would have cost and compare it the CTO payouts – or a portion of them, because vacation would normally be paid out if we did not have CTO. Rosemary said many years ago the village used to pay employees for a sick day each month if they did not take it. Scott said the state gives employees a personal day for every unused sick day. *[At the next meeting, Scott corrected this statement, saying that the state gives a personal day for some block of unused sick time, but it is not one-to-one.]*

Gordy said the boards did look into short-term disability in the past and felt it was expensive. Duncan said it was looked at as recently as last year.

Duncan said he hopes committee members can make comparisons to other municipal workplaces. It is important to think about the type of workplace we have. In interviewing and hiring new people, the personnel policy was something he was able to use to our advantage. If we weren't offering the same wage as somewhere else or life insurance or disability, he could at least say we had a very flexible combined time off plan. He has been able to use that as a tool.

Scott said he has worked for multiple employers of various sizes. It seems like there are caps for everyone. The amount of money being paid out for unused time off was a huge budget concern for the trustees. It was alarming. Some trustees thought there should be a cap of some sort. The trustees are interested in clarifying the policy for CTO so it makes more sense and in having a way to determine which employees have a large amount of money in their banks so when they leave employment it doesn't shock the budget.

Sandy said he is hearing that the CTO policy was put together in part to avoid paying for short-term disability. Duncan said it was to avoid long-term disability as well. At the time we didn't have that, though we do now. Sandy said if we find out that short-term disability, had we been carrying it, would have been more expensive over time, but the big blips when someone retires are a budgetary issue, then it becomes an issue of how to manage the impact on the budget. One way to manage is to establish a fund and put some money into it every year. Another possibility is to meter out payouts to employees over time. Large payouts might be disadvantageous to the employee because of the big tax hit. Or there could be some combination of the two – establishing a fund and/or metering out payments over time. Not all employees will like to have payments metered over time. Some would prefer a lump sum. But if it's a budgetary issue and over time the current practice is beneficial we should discuss how to manage the budget. We should also discuss what the right number for the payout is.

Scott said he is proud that the town and village have the sick leave bank but he doesn't think we should pay out for unused time in it.

Jan said there are already caps. Hours that go into the CTO bank are hours that have already been earned. Once time goes into the third bank, the catastrophic sick leave bank, when the employee retires that time is donated back to the town or village. When one employee left he donated over \$30K worth of time. She thinks the current plan is an excellent one. The second bank, the sick reserve bank, is capped at 480 hours. When an employee leaves they get paid for only 120 of those 480 hours. The rest is absorbed back to the town and village, which is a benefit to the municipalities. The CTO bank is capped at 1.5 times what can be earned in a year. Once the cap is reached time is rolled into the other two banks. An employee who retires is paid for all the time in their CTO bank. Jan mentioned that one change she would like to see is for employees to get an increase in vacation time after 20 or 25 years. Right now there is no further increase after 10 years of employment.

Scott asked for clarification on the current policy. Jan explained that CTO can be rolled over in the first bank until it reaches 1.5 times the amount earned in a year. Scott asked about sick time that isn't used. Jan said there is no separate sick time. Employees just get CTO. Scott asked about overtime. Jan said that just gets paid out as it is earned, except for the town highway crew. Duncan said the highway crew can elect to take comp time.

Sandy asked how hours get into the 80 hour sick bank. Duncan said at the end of the year, any amount of CTO accrued beyond 1.5 times the annual accrual goes into the sick leave reserve bank. If the sick leave bank gets full then time rolls over into the catastrophic sick leave bank.

Scott said asked what an employee gets back financially after leaving employment. Jan said they get 100% of CTO, 25% of the sick leave bank, and nothing from the catastrophic leave bank.

Sick leave can be used to care for family members as well as for the employee's own illness. But catastrophic sick leave can be used only for the employee. CTO can be used for any purpose. The employee does not have to say why he is taking time off.

Scott asked if there is a reason why we don't differentiate between different types of time off. Duncan said yes; it gives employees flexibility.

Bob said he thinks every employee should be forced to take their vacation time or lose it. The current system is nothing but a savings plan.

Scott said it seemed that the trustees were in consensus that time should be used and not saved to keep the budget in check, unless we have some way to determine how much it will cost the village. He is hearing there are benefits both ways. He is not sold on lumping sick time in with vacation time. He is not sure that makes sense.

Bob said it is better not to have the large payouts even if it costs us more money in the long run because we can manage the budget.

Duncan said if he had had to take his time or lose it that would have meant a month when he was not here and no one else was doing his job.

Scott asked if there is a way the trustees and selectboard can review accrued time so they know who has what on the books and they won't be surprised when someone leaves. Gordy said Rosemary made a list.

Troy said the employees are concerned about changes to the policy. They like the current policy. It works very well and they would like to see it stay in place. They don't want to lose the option of being able to use time off as they would like. Another concern that was brought up to him is the way some parts of the policy have been interpreted in the past. He read the part of the policy describing what sick leave can be used for. The policy says appointments with health care providers can be claimed. It was brought to his attention that in the past

employees were not allowed to use sick leave bank time for appointments but were told the time had to come from the CTO bank.

Scott said he doesn't agree with the definition of immediate family members used in the policy. It describes them as living within the same household. He said most people don't live with their parents or siblings but may need to care for them. Eric said the definition in the policy can be changed. Nat agreed that it needs clarification but he doesn't feel the present wording excludes using sick time for family members who are not part of the household.

Duncan said the only situation he is aware of is that an employee wanted to use hours from their catastrophic sick leave bank, not from their regular sick leave bank. He and Rosemary told the employee it was not a legitimate use of their catastrophic sick leave bank because they had full CTO and sick leave banks.

Scott asked about the second tier sick bank. Rosemary said it is only used after CTO time is used up. Duncan said that is one of the things he has on his list that needs to be clarified. Scott asked, so an employee has to burn up all his vacation time and sick time before going into his sick leave bank? That doesn't seem right. Duncan said his feeling is, if you have one and a half times your CTO accrual, why wouldn't you use some of that before going into your sick leave bank? Scott said because some of it is vacation time. Rosemary said he shouldn't think of CTO time as part vacation time and part sick time. It is just time. Troy asked if it says in the policy that you have to use all the CTO time before you can use sick leave in the second bank. Duncan said it is implied but not clearly stated. In the instance he knows of, the person was trying to use time out of their catastrophic bank and he told them if they disagreed with his interpretation they could bring it to the trustees. The basis for his thought process was that the policy allows you to take CTO time and put it into your sick leave bank or catastrophic leave bank but once it goes into those banks it can't go back out to the CTO bank. Sandy said he doesn't see it clearly stated in the policy that you must use CTO time first. Requiring that could be problematic if an employee has a vacation planned and has bought plane tickets and they only have 7 days left in their CTO and then they need to take a day off and are left with only have 6 CTO days. Are we saying they are going to work a day without pay? Duncan said it is possible after you have worked for six months to borrow time against future accruals.

Troy passed out a document showing the amount of time an employee has accrued in all 3 banks, what he would receive for a payout if he were to leave today, and what would be left for the village. The employee would get \$12,480 paid to him and the total left on the books would be \$17,670. Where does that money go? Sandy said that money doesn't really go anywhere for budgeting purposes because it's not budgeted. We can calculate the value of the leave but it's an unfunded liability. The money the employee is paid out doesn't exist in the budget either, at least not all of it. Duncan said some of it is funded. Troy said if this individual had been made to use or lose his time, the \$17,670 would have been paid out. He said employees feel the current plan is win-win for the village/town and the employees.

Sandy said one thing the trustees are talking about is whether this benefit is reasonable or excessive compared to what other municipalities offer. Many municipalities have sick leave

banks. Some are capped and some are not. Those whose banks are not capped have been struggling to cap them or their liability becomes excessive. Some pay out a portion on retirement. Twenty-five percent is the most common payout amount. Catastrophic leave banks are a little less common. Our catastrophic leave benefit is fairly generous to the employee.

Scott said the catastrophic leave bank is almost like a mini insurance policy. Duncan said a logical cap for catastrophic leave could be whenever long-term disability kicks in.

Eric asked how often employees look at their banks and see how much time they have earned. Troy said he doesn't look at his because of the short length of time he has been here. He knows others do check it, though. Rosemary said it's on the pay stubs. Sandy said his experience is that employees tend to monitor it fairly carefully. Duncan said some of our employees take every hour coming to them and others don't take all their time and have built up time in their banks. Our current policy gives employees some choice and he doesn't think it has a huge impact on the town or village. Sandy said it may not have a large impact over time, but the trustees are reacting to blips. Jan said if it were funded there wouldn't be that blip. If an employee is nearing retirement age, we can predict when they will retire.

Troy asked, when this policy was put in place why wasn't the budgeting factor included, knowing that people would retire at some point? Sandy said he guesses there wasn't much accumulated time at that point. Rosemary said some employees had accrued a lot of time, though there wasn't a catastrophic leave bank at that time. Duncan said 25% of time in the village sick leave bank was paid out when employees left. Sandy said when there were separate banks, vacation time and personal time were paid out in full, but sick leave wasn't, so employees got a significant benefit when CTO was created.

4. Action Item: Objectives, Goals and Mission of Committee

Nat said it sounds like we want to clarify, examine and define the categories of leave or look at whether the current system is valid or if we want to offer short-term disability. He said it seems there is confusion over what the different buckets are and a desire to redefine or clarify that. But maybe that is Step 2. Maybe Step 1 is to consider whether we should throw out the existing system and go a different route. Bob said all we are covering seems excessive to him. He doesn't see how the town and village can take it on and still survive. Gordy said he would like to have a list of items for Sandy and Duncan to research. He would like to see what other towns are doing. He would like to see the whole thing simplified without taking away from employees' benefits. Anywhere else you work you use CTO or lose it. What was good 12-14 years ago he doesn't think is still best today. We have to look out for employees but also for taxpayers. Eric said we need to make sure what we have has clarity and we want to validate all the components of the policy and decide if we should continue to include them.

Duncan said he has a memo he drafted with a list of things he thought should be looked at. Committee members agreed that would be worth looking at. Duncan distributed it and the group reviewed it.

Item #1 is modifying the policy to reflect the change in town and village administration. There was consensus that should be done.

Item #2 is to update the parts of the policy relating to employee discipline. He feels after having applied the policy that some things need to be looked at and we need to make sure it is consistent with the federal Fair Labor Standards Act. Sandy said he wants to see that updated but other items may be higher priority. Eric said Gordy had mentioned wanting to have some changes in time for budget development, but we have been living with this policy for 14 years. If it took us a year to make changes that would not make a big difference. Gordy said he doesn't think the trustees want to continue with the policy as is because employees will keep accumulating time we will have to pay out.

Item #3 is about other policies like the policy on use of communication equipment that are not tied to the personnel policy but perhaps should be. Sandy said the existing communication equipment policy doesn't say anything about penalties for violations of the policy. It should be tied to discipline, probably by being attached to the personnel policy. Scott said in the past if someone violated a safety rule, pay could be docked. Was that based on written policy? Duncan said it was a very specific personnel policy. Duncan said if he violated the computer use policy by importing software and it corrupted the entire network there would be no consequence for that because the policy is not tied to the discipline process. Sandy asked if the concept of tying these standalone policies to the personnel policy is controversial to employees. Troy said he would need to think about that more before commenting. Sandy said knowing whether this is controversial can help us decide whether it should be one of the objectives.

Item #4 is about the village severance pay policy and the town's personal vehicle use policy. Eric asked Duncan to summarize what the village severance pay policy is. Duncan said if an employee who has worked 10 or more years is in good standing (not fired or under disciplinary action), they get a percentage of their pay if their position is eliminated and there is no other available position in the village for them. Depending on their years of employment they get a lump sum payment equal to 6 weeks, 8 weeks or 10 weeks normal pay and they agree not to file a lawsuit. The policy on use of personal cars says that a person using their personal car for work will carry insurance on their vehicle and sets out rates of pay. Sandy asked what the village does if someone uses their personal vehicle. Duncan said he doesn't think anyone does. Sandy said the permanent manager will, so that is a good reason to think about it.

Item #5 is ensuring we are compliant with federal and state laws. Everyone agreed this should be part of the committee's work.

Item #6 is about creation of an employee sick leave bank, which was approved by both boards. It allows employees to donate hours out of their catastrophic or sick leave banks. They have to maintain at least 40 hours in their own bank. The donated hours go into an employee bank not tied to any individual. The trustees and selectboard voted to approve this in 2014 but it was not formally put into policy. The bank was created and used. It takes 6 months before an employee is eligible for long-term disability. Employees who are receiving disability pay cannot use time from the employee sick leave bank.

Scott asked what happens when someone is out and has used up all time. Do they cease getting payments from the town or village and what happens to their medical insurance? Duncan said we have not had that circumstance, but at some point if they were not able to perform the duties they were hired for they would have to go on disability. Scott said then their insurance would stop. Sandy said under state law if a person has not been back for a certain amount of time, usually a year, and can't perform their duties anymore, then they may not be able to keep their job. Duncan said if someone is terminated and they were covered by insurance they have a right to pay for insurance themselves through COBRA for up to 18 months.

Jan brought up language she had seen saying that an employee could only use donated time for up to 3 months. Duncan said that was from a draft and that language was not adopted. Scott said he doesn't think there should be 3 months when the employee cannot use sick leave and is not yet eligible for long-term disability. Sandy said it sounds like he is talking about short-term disability. Duncan said it could also be long-term disability that kicks in earlier. Scott said if no one donates time to the employee bank then there will be nothing to use. Duncan said he thinks an earlier draft said that employees had to make a contribution to be able to use donated time. Jan said the proposed amount was 8 hours. She had cancer several years ago and is still not completely well so she still needs to take some time off and it is impossible for her to donate 8 hours now. If she were required to donate 8 hours in order to use time from the employee sick bank that would be a bad thing for her.

Sandy said he is hearing he should contact PACIF and get quotes for short-term disability and also long-term disability with a shorter waiting period. Gordy said if short-term disability turns out to be too expensive another option would be to find a way for employees to keep using sick leave up until long-term disability provides coverage.

Item #7 is about call-out, call-in, and on-call policies. The way the policy is written now, it says each board will develop its own policies on those. Duncan thinks that is probably still a reasonable approach. Neither board has a formal written policy. Past decisions are reflected in the minutes but not in a written document. It was agreed to let individual boards write up their own policies.

Item #8 is the question of whether employees should get Martin Luther King Day off. Eric asked, it's not part of CTO? Duncan said no. Rosemary said Columbus Day and Bennington Battle Day are incorporated into CTO time. Sandy said one thing to think about is that in small workplaces floating holidays can be problematic. Enough employees may take the day off that there are insufficient staff left to get things done. He has leaned toward fixed holidays because then you know you will be closed and don't have to worry about how to staff the office if too many people take the day off. If employees have to ask for the time off, you can deny it, but because we have CTO time off doesn't have to be approved. Eric asked how many holidays we give now. Duncan said 9, plus 2 floaters that are incorporated into CTO time. When the number of hours of CTO time were being determined, 16 hours that were formerly holidays were included. Eric asked what the typical amount of holidays is. Sandy said it ranges from 8 to 14. If it is as low as 8 usually there are several floating holidays and if it is at the higher end of the range there are usually fewer personal days or

vacation days or sick days. Most municipalities are in a fairly narrow band of total time off, whether it is CTO or individual buckets of personal, vacation, and sick. They generally wind up roughly where are numbers are. Gordy said he would like to compare what we offer to what other municipalities offer.

Item #9 is overtime and comp time. Duncan said the personnel policy talks about use of comp time. There may not be a policy change needed, it may just be how it's managed. Sandy said one overtime issue many municipalities grapple with is whether overtime should start after 8 hours in one day or after 40 hours in one week. Troy said he doesn't feel it would work out to tell employees that if they come in very early in the morning then they should go home after 8 hours. He feels you need to be compensated for getting up that time of day. Eric said if we could see policies from other communities we could get a better feel for how others are dealing with that. Gordy said he thinks if we changed from our current policy of starting overtime after 8 hours we would never hire another lineman.

Item #10 is the catastrophic sick leave bank. Duncan said we have talked a lot about that and he thinks it needs to be part of the discussion.

Item #11 is final compensation issues and Duncan thinks that needs to be part of the discussion. It was one of the issues Gordy mentioned at the beginning. It is not currently clear in the policy what happens if an employee is fired. It appears that we would be required to pay someone who was fired for his accrued time. We might want to look at that. Sandy suggested the policy could distinguish between people who were terminated for cause and people who left for other reasons. He said we can get examples of other policies. It was agreed the committee should look at this.

Item #12 is CTO carryover. Duncan said it seems clear that has to be one of the major points of discussion.

Item #13 is the need for clarification of when the different leave banks get used. Jan said she thinks once time is rolled into the second bank if an employee goes to the doctor they should be able to use sick leave bank time, not CTO. All agreed this item should be part of the discussion.

Item #14 is that the policy currently says a physical exam as a hiring requirement is discretionary and there is no requirement for background checks. Sandy said he thinks we should require pre-employment drug screening for certain employees. The current policy doesn't mention drug screening. Duncan said he thinks it is discriminatory if physical exams can be required for some new hires and not for others. He thinks we should either require it or not require it.

It was agreed that the next meeting of the committee will be Tuesday, November 10 at 4:00 and the following meeting will be December 8 at 4:00.

Duncan said he thinks we will probably have to contact some municipalities to get copies of their policies because a lot of the information that comes from surveys is pretty generic.

VLCT does have an annual census of benefits. He has never looked at it. Sandy said he has participated in that program and found that enough things are incorrectly reported to make it useful but not authoritative. Gordy asked about the information Duncan used to give the trustees from VLCT about different munis. Duncan said it was a combination of a survey of all municipal electrics and office staff comparison. Sandy suggested using that. It's not that out of date. And we can also get copies of different municipalities' personnel policies. He and Duncan can provide copies of that. Sandy can bring VLCT's model personnel policy.

Sandy suggested keeping future meetings to 2 1/2 hours. Others agreed.

5. *Adjourn*

The meeting was adjourned at 7:30.

Minutes submitted by Donna Griffiths