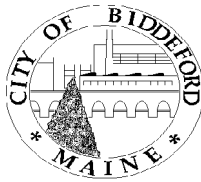


City of Biddeford
Personnel Committee
December 15, 2020 3:00 PM Zoom

- 1. Call to Order**
- 2. Acceptance of Minutes**
 - 2.1. Accept Minutes
[Minutes 11-17-20.docx.doc](#)
- 3. Discussion**
 - 3.1. Edits to Nonunion Handbook for Earned Paid Leave Law
[Personnel Packet 12-11-2020.pdf](#)
- 4. Other Business**
- 5. Adjourn**



PERSONNEL COMMITTEE MEETING

Tuesday November 17, 2020
Human Resources Department

3 PM
Minutes

ITEM 1 Call to order

Chair Councilor Michael Ready called the meeting to order at 3 PM with Councilors William Emhiser, Norman Belanger, and Robert Quattrone Jr. present. Also present were James Bennett, City Manager, Diana DePaolo, Human Resources Director, and Hillary Owens, Management Analyst

ITEM 2 Acceptance of Minutes

Minutes from August 18, 2020 meeting accepted.

ITEM 3 Nonunion Adjustments memo

3.1 Motion to change aging of non-union pay scales by 2.5 percent for the period covering July 1, 2020 to June 30, 2021- Motion approved.

3.2 Motion to approve a one-year suspension of the non-union merit pay system for the period covering July 1, 2020 to June 30, 2021- Motion approved

3.3 Motion to authorize the City Manager to implement wage and bonus for FY 21- Motion approved

3.4 Motion to recommend to the City Council that they provide the non-union employees December 31, 2020 off with pay and authorize the City Manager to close the corresponding offices- Motion approved

ITEM 4 Other Business

No other business

ITEM 5 Adjourn

Motion to adjourn 3:27

Personnel Committee Members:

Councilor Michael Ready, Chair
Councilor Norman Belanger
Councilor Robert Quattrone Jr.
Councilor William Emhiser

VACATION

- A. Each non-union, regular full time employee shall earn vacation pay on the following basis:
- a. 12 weeks after one year of service but less than five years
 - b. 23 weeks after 5 years of service but less than 10 years of service
 - c. 34 weeks after 10 years of service but less than 15 years of service
 - d. 15 weeks after 15 years of service
- B. Each non-union, part time employee working more than fifteen hours but less than thirty hours per week shall earn vacation pay, prorated to their regularly scheduled hours, on the following basis:
- a. ~~1 week after one year of service but less than five years~~
 - b.a. 2 weeks after 5 years of service
- C. Vacation time shall accrue to coincide with the employee's anniversary date at the rate established in the table above. Vacation time is not earned until the full year has been worked.
- D. Vacation time will not be granted if there is Earned Paid Leave on the books for an employee. Vacations shall be granted at such time or times as shall be mutually agreeable to the City and the employee, at the discretion of the Department Head. Vacation time will be available for use by the employee as it is earned. In cases of conflict, vacations shall be granted according to seniority in that department.
- E. Unless requested by the City under an emergency situation, an employee shall not be allowed to work and be paid double his usual wage during a vacation period.
- F. An employee, who is entitled to four weeks or more vacation, is also entitled to compensation for the weeks in excess of three weeks in lieu of vacation time off. Compensation shall not exceed two weeks in any calendar year. The employee may request this compensation option to their Department Head. Requests for compensation must be submitted two weeks in advance and only one request may be submitted per accruable year. This privilege is extended at the sole discretion of the City Manager and shall be based on job performance, the financial condition of the city at the time of the request and other factors deemed to be fundamental to the legitimate business needs of the City. Employees hired after July 1, 2008 are not eligible for compensation in lieu of vacation time off. This section shall terminate on June 30, 2020.
- G. Requests to carry forward unused vacation time must be approved by the City Manager and must be submitted at least two (2) weeks prior to the end of the employee's anniversary year. Vacation that is carried forward will be used hour-for-hour, however; the actual dollar value of the unused (carried) vacation time, paid under section E or G of this policy, shall coincide with the employee's hourly wage in effect upon the date the unused time is carried forward. No more than 80 hours can be carried over in any year.
- H. An employee, upon terminating employment, shall receive payment for his accumulated vacation leave. In the event of the employee's death, his designated beneficiary shall receive the same monetary value of any remaining accumulated vacation leave; if no such beneficiary is filed in writing with the City, it shall be paid to the employee's surviving spouse and if no surviving spouse to his estate.

EARNED TIME

A. Accrual: All employees are entitled to earn one hour of paid leave for every 40 hours worked, up to 40 hours per year. Accrual of leave begins on start of employment. Earned Paid Leave will be paid at the employee's regular rate of pay as established in the week immediately prior to taking Earned Paid Leave.

B. Use of Earned Paid Leave: Employees are not eligible to use this leave until they have been employed for 120 calendar days. After that they may use earned paid leave for any reason and can do so in increments of 1 hour. If there is earned paid leave available it must be used before vacation time will be approved.

C. Notice: Employees must provide at least 2 weeks' prior notice to their supervisor of their intent to use this leave, unless leave is for an emergency, illness, or other sudden necessity where advance notice may not be feasible, and then notice must be given as soon as practicable.

D. Rollover: Any remaining Earned Paid Leave at the time of any employees anniversary date will be rolled over to the following year

E. Separation: Unused accrued Earned Paid Leave will be paid to the employee at time of separation.

SICK LEAVE

Sick leave is available to all regular and part-time employees as follows:

A. Hourly employees:

1. Sick leave shall accrue on the 1st day of the 7th month of employment at the rate of one workday for each full calendar month of service, accumulative to a maximum of 120 working days. For the purposes of this section, the first month of an employee's service shall be counted as a full month of service if employment begins on or before the 15th day of the month. ~~Sick leave will be accumulated during the probationary period of the new employee but not available should the employee fail the probationary period.~~
2. Sick leave may be used only in the following cases: personal illness; to care for the sickness or disability in the employees family, meaning spouse or children living in the same household, or; physical incapacity of such degree as to render the employee unable to perform the duties of his position, unless the employee is capable of other work in his division and assigned to such other work. If requested, the employee shall furnish the Department Head a certificate from his attending physician.
3. Sick leave usage shall be recorded regularly, on weekly time and attendance sheets and the record shall be maintained by the Human Resource Department.
4. Employees failing to submit a two weeks' notice shall receive no compensation for unused sick leave.
5. Sick leave incentive: all employees shall participate in the sick leave incentive program, Employees shall have unused sick time swept into a deferred compensation retirement 457 plan, fully vested in their name, based on the following schedule:

a) Less than 240 hours	0 hours swept
b) Less than 350 hours but more than 240 hours	36 hours swept
c) Less than 350 hours but more than 600 hours	72 hours swept
d) More than 600 hours on the books	108 hours swept
e) Hours will be paid out based on the current hourly wage and factored at 25%	
6. Hours will be swept on December 31 of each year and payment will be made in the employees account on about July 30th of the following year. Should employee leave in good standing prior to July 30, the funds will be deposited upon written notice of separation.
7. Any employees that have any sick time on the books as of the December 1, 2016 shall have all excess hours swept into a reserve sick leave (RSL) account. These hours will be carried in a separately tracked sick bank. The employee may use these hours for any reasons covered by this policy. Any unused hours left in this bank shall be paid upon employee separation in good standing based on the hourly wage the employee was receiving on December 1, 2016 and factored at 50%. Should an employee become eligible for a higher percentage of sick leave payout at separation, the RSL balance will also be paid at that higher percentage payout. While the percentage shall be increased, the hourly wage amount remains at the December 1, 2016 rate.

This provision is valid only onetime on December 1, 2016 and shall no longer be applicable after that date. The City shall keep a separate accounting for these employees and hours and cause a report to be issued annually to the Personnel Committee and the employees detailing the same.

B. Salaried employees:

1. Sick leave may be used only in the following cases: personal illness; to care for the sickness or disability in the employees family, meaning spouse or children living in the same household, or; physical incapacity of such degree as to render the employee unable to perform the duties of his position unless the employee is capable of other work in his division and assigned to such other work. If requested, the employee shall furnish the Department Head a certificate from his attending physician.
2. Salaried employees shall be paid their weekly salary in full even if the employee was unable to attend their normal work schedule because of sick leave. Salaried employees occupy leadership roles in the organization that does not allow extensive absence from work regardless of the reasons. In the event a salaried employee is absent or shall require to be absent for an extended period of time, they shall notify their immediate supervisor and Department of Human Resources. The City will make reasonable accommodations to the extent it can, taking into consideration seniority, job performance, critical nature of the job functions, and other factors. In all circumstances, the legitimate business needs of the City shall be the determining factor in dealing with such extend or continued pattern of absences.
3. Unused sick time is not compensable upon termination of employment.

§637. Earned paid leave

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE 1/01/21)

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Employment" has the same meaning as in section 1043, subsection 11, but does not include employment in a seasonal industry as defined in section 1251. [PL 2019, c. 156, §3 (NEW); PL 2019, c. 156, §4 (AFF).]

B. "Employer" has the same meaning as in section 1043, subsection 9. [PL 2019, c. 156, §3 (NEW); PL 2019, c. 156, §4 (AFF).]

C. "Employee" means a person engaged in employment. [PL 2019, c. 156, §3 (NEW); PL 2019, c. 156, §4 (AFF).]

[PL 2019, c. 156, §3 (NEW); PL 2019, c. 156, §4 (AFF).]

2. Earned paid leave. An employer that employs more than 10 employees in the usual and regular course of business for more than 120 days in any calendar year shall permit each employee to earn paid leave based on the employee's base pay as provided in this section

[PL 2019, c. 156, §3 (NEW); PL 2019, c. 156, §4 (AFF).]

3. Accrual. An employee is entitled to earn one hour of paid leave from a single employer for every 40 hours worked, up to 40 hours in one year of employment. Accrual of leave begins at the start of employment, but the employer is not required to permit use of the leave before the employee has been employed by that employer for 120 days during a one-year period.

[PL 2019, c. 156, §3 (NEW); PL 2019, c. 156, §4 (AFF).]

4. Rate. An employee while taking earned leave must be paid at least the same base rate of pay that the employee received immediately prior to taking earned leave and must receive the same benefits as those provided under established policies of the employer pertaining to other types of paid leave.

[PL 2019, c. 156, §3 (NEW); PL 2019, c. 156, §4 (AFF).]

5. Notice. Absent an emergency, illness or other sudden necessity for taking earned leave, an employee shall give reasonable notice to the employee's supervisor of the employee's intent to use earned leave. Use of leave must be scheduled to prevent undue hardship on the employer as reasonably determined by the employer.

[PL 2019, c. 156, §3 (NEW); PL 2019, c. 156, §4 (AFF).]

6. Benefits. The taking of earned leave under this section may not result in the loss of any employee benefits accrued before the date on which the leave commenced and may not affect the employee's right to health insurance benefits on the same terms and conditions as applicable to similarly situated employees. Nothing in this section prevents an employer from providing a benefit greater than that provided by this section.

[PL 2019, c. 156, §3 (NEW); PL 2019, c. 156, §4 (AFF).]

7. Enforcement. The bureau has the exclusive authority pursuant to section 42 to enforce this section.

[PL 2019, c. 156, §3 (NEW); PL 2019, c. 156, §4 (AFF).]

8. Penalties. Penalties for violations of this section are the same as those provided in section 53.

[PL 2019, c. 156, §3 (NEW); PL 2019, c. 156, §4 (AFF).]

9. Preemption. A municipality or other political subdivision may not enact an ordinance or other rule purporting to have the force of law under its home rule or other authority regulating earned paid leave.

[PL 2019, c. 156, §3 (NEW); PL 2019, c. 156, §4 (AFF).]

10. Rules. The Department of Labor shall adopt rules to implement and enforce the provisions of this section, including rules regarding the receipt, investigation and prosecution of complaints brought under this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2019, c. 156, §3 (NEW); PL 2019, c. 156, §4 (AFF).]

11. Exception. This section does not apply to an employee covered by a collective bargaining agreement during the period between January 1, 2021 and the expiration of the agreement.

[PL 2019, c. 156, §3 (NEW); PL 2019, c. 156, §4 (AFF).]

12. Reporting. Beginning January 1, 2022, and annually thereafter, the Department of Labor shall submit a report to the joint standing committee of the Legislature having jurisdiction over labor matters on progress made in the State to comply with this section.

[PL 2019, c. 156, §3 (NEW); PL 2019, c. 156, §4 (AFF).]

REVISOR'S NOTE: §637. Leave for appointments for veterans as enacted by PL 2019, c. 350, §1 is REALLOCATED TO TITLE 26, SECTION 638

REVISOR'S NOTE: §637. Wage theft remedies as enacted by PL 2019, c. 461, §1 is REALLOCATED TO TITLE 26, SECTION 639

SECTION HISTORY

PL 2019, c. 156, §3 (NEW). PL 2019, c. 156, §4 (AFF).