

Special Joint Human Resource and Streets Committee Meeting
Thursday, October 21, 2021, 8:00 a.m.

Members Present: Chairman Nairn, Porter, Chairman Carroll, Mayor, Fiscal Officer Romanowski, Street Commissioner Alder, Police Chief Rizzo, Solicitor Matheney

Visitors: Ruth Cavanagh, Greg Heilman

The meeting was called to order by Chairman Nairn and requested the meeting be audio recorder. Fiscal Officer took the roll.

Nairn addressed an overtime issue which occurred the previous week. She asked the Street Commissioner to explain the situation. The Street Commissioner asked either the Fiscal Officer or Solicitor to go over the applicable ordinance or law about the 40-hour work week compared to the 8-hour day. The Solicitor explained that in the section of the Employee Handbook that addresses overtime, the last sentence states, “overtime is based on hours worked in a day, not hours paid.” Her understanding was that the question was whether comp time could go towards the required 40 hours for overtime. She stated it could not. Holiday, vacation, sick time, comp time, and any paid time off would not count as actual hours worked for overtime purposes. The Street Commissioner verified that this had been in the handbook since 2017. The Fiscal Officer concurred. The Street Commissioner said this law had not been used until last Saturday. The Fiscal Officer stated it had been used. There had been an issue with it in the Police Department where an employee had been on vacation the first part of the week and could not get overtime. The Chief concurred that the employee received straight time for the additional comp shift. The Fiscal Officer explained that part of the problem was that payroll ends on the 15th of the month and the employee gets paid on the 15th. This means that payroll must be submitted three days ahead of time and is based on what the Department Heads supply her. This situation was blatant because she noted on the timesheets that the person was off the whole week and then came in Friday and was scheduled for Saturday and Sunday. She told the Street Commissioner ahead of time that the employee would be paid at straight time. This was where the issue began.

The Mayor stated that no one had lost a penny with this situation last weekend. The Fiscal Officer concurred, and Carroll added that this was because the employee did not work. Carroll verified that all employees sign off on the employee handbook and indicated the rules should be followed. If a rule needed to be changed, that was a different discussion. Carroll addressed the number of phone calls made to the Solicitor about this situation as it related to the discussion of excessive Solicitor charges. Carroll further stated that the Fiscal Officer is the HR person who advised appropriately when contacted. The Employee Handbook is clear, and the rule should be followed.

The Fiscal Officer added that the State Auditor is becoming more and more strict. They request and review / audit the Employee Handbook, payroll, and timesheets. It is an issue if the handbook is not being followed. Perhaps the situation had happened in the past without her

noticing, but this one she noticed and tried to alert the Street Commissioner to it. It is her job to be sure the Village is following the handbook.

The Mayor concluded that nobody lost a penny, but Council may want to take a look at the rule. The Mayor asked about holidays, and the Fiscal Officer explained that they are entirely different than overtime. They are paid regular time, and then double time if they work, in essence, triple time. The Mayor presented a scenario involving a callout after a holiday and a vacation day and asked what kind of pay the employee would receive. The Solicitor stated straight time. There was discussion regarding callouts and Carroll noted that the handbook indicates the employee would receive a minimum of four hours but did not say it was overtime. Porter stated if the employee were called out to snowplow, he would receive a minimum of four hours pay and if these hours pushed the employee over 40 hours for the week, then it would be overtime.

The Street Commissioner clarified that when there is a Federal holiday, the employees would be 8 hours short for the week. The Solicitor concurred that this is what the handbook states. She added that according to the Fair Labor Standards Act (FLSA), holiday, sick time, vacation, paid time off, and comp time did not count for the calculation of overtime. She reminded the committees that the employees were being paid for the holiday.

The overtime policies of other municipalities were discussed. The Fiscal Officer explained that policies differed, but the majority were based on time worked in a 40-hour week. She reiterated that the Village currently has it as hours worked not hours paid. The Street Commissioner asked when this changed. The Fiscal Officer stated that the Handbook was updated in 2017. Previously, it may have said overtime based on hours per day but clarified to hours “worked” in the 2017 update.

The Street Commissioner asked why this would have changed from an 8-hour day to a 40-hour week. The Fiscal Officer explained Council made the changes and adopted it. The Street Commissioner stated that he did some research and said that neither the County nor Ohio Department of Transportation (ODOT) follows this law. The Fiscal Officer did not know why the Street Commissioner seemed to be accusing her, when she is simply enforcing what is in the handbook.

Carroll acknowledged that Council should investigate the callout policy but added that he would not want people gaming the system. He added that it was not the Fiscal Officer’s fault for following the policy. He reiterated that his consternation with the matter concerned how the Solicitor was used and the resulting expense to the Village. The Fiscal Officer was just following the rules, the Solicitor advised her, and then people did not like the answers and started to call around to get the answer they wanted.

The Mayor returned to his holiday/vacation time scenario and the Solicitor reiterated that under the circumstances, the employee would receive regular time. She suggested vetting the policy in committee. The Mayor thought that previously when the Street Department employees were called in on a Saturday, they received time and a half. The Fiscal Officer surmised that they probably did. She explained that part of the problem was with the timing of the payroll. To accommodate this, the Department Heads submit a summary of the payroll to her. The timing

did not allow for an audit of each employee's time sheets. As far as what had occurred in the past, she knew the former Street Commissioner was a little more cognizant of the policy and bringing people off of vacation to work an event. As far as the policy, this was up to Council.

The Police Chief addressed the two issues of scheduled overtime/comp time for an event and emergency callouts. Carroll questioned the Street Commissioner about time involved with snowplow routes and felt Council should look at the emergency callout policy. The Fiscal Officer explained that callouts are for four (4) hours because it is an emergency. However, with a cemetery cremation burial on a Saturday, it would not be a four-hour callout because it was a scheduled event.

The Street Commissioner stated that he wanted anything out of the regular scheduled work week to be overtime. Anything outside of 7:00 a.m. to 3:30 p.m. should be overtime. Porter and Carroll agreed that there needed to be balance and agreed to discuss it in committee. Carroll felt a two-week pay period might help.

Ruth Cavanagh asked whether the employees must come in for an emergency callout. Nairn said that the employees choose whether they pick up the phone or not. The Street Commissioner said that this could happen but has not. A question of this situation came up during his research. The Village only has three Service Department employees. If one person did not answer the phone, hopefully the others would. What if two people did not answer the phone and there was a blizzard. Nairn concluded that the Village would want to avoid this situation. By the same token, rules needed to be followed. The Chief explained that when he calls someone in for last minute coverage or an emergency, he expects the employees and his officers to be available to address the emergency. The Fiscal Officer stated that listed in the Service Department employee job description was that they will demonstrate regular and predictable attendance and are required to report to work outside normal working hours. Nairn asked the Street Commissioner if his employees know this is a requirement, and the Street Commissioner concurred.

The Solicitor reminded the committees that the Village has an agreement with other municipalities and townships to step in for street coverage if there were an emergency. If none of the three Service Department employees answered their phones, the Village had this as an alternative. Nairn felt this would not go over well.

Cavanagh relayed a precedent that was set in the 1990's where an officer contested how her work hours were paid as the hours were spread over the two-week period, not the hours in a week. The officer sued and won. While this was not the same situation, it did confirm that the rules must be followed.

The Street Commissioner relayed that the communities he contacted had varying policies of what time was and was not included with overtime. The Village's policy would impact the Service Department employees drastically according to his calculations. They would lose between 15% and 40% of their overtime if they were to take a day off in a given week. He asked why an employee should be penalized if they take time off to attend a child's basketball game or recital. When they are called in to plow it would be straight time. Porter and Carroll agreed callouts were different. The Fiscal Officer stated that it was different when an employee took the week

off and then would come in on Saturday to get overtime. This was what caught her attention. The Street Commissioner said one day would not matter from four or five days.

The Mayor stated nobody lost any money. In the future, the Village was looking at somebody not being available when they were needed on an emergency basis. The Fiscal Officer differentiated between the emergency callouts and the scheduled events occurring outside of normal working hours.

The Street Commissioner stated that the employees make sacrifices throughout the entire winter. They do not plan to go to birthday parties or anything to do with their kids at school because they want to be available in case there is overtime. They do not plan to attend Christmas parties or events at night. They must refrain from drinking. They are making sacrifices and he believed they should be compensated for it.

Carroll acknowledged the Street Commissioner's position but pointed out that it was in the job description. The emergency callout is something the committee should consider, but the Village was not in the business of bankrolling overtime for the sake of overtime. He cautioned about cherry picking policy from the surrounding communities and said if the employees liked it that much better in Chagrin Falls, then they should go work in Chagrin. The employees in the Village have a pretty good working environment. The Street Commissioner said that the Village needed to take care of its people and should all be behind them 100%.

The Mayor asked the Fiscal Officer how much the Service Department employees would have been paid to work the Fall Festival. The Fiscal Officer explained that the work week is Sunday through Saturday. If an employee worked Sunday and then 40 hours the remainder of the week, then the hours put in on Sunday would have been overtime.

The Fiscal Officer indicated that Council could design the policy however they wanted, but it needed to be put into the Employee Handbook because the Village would be audited on this.

Nairn stated she believed the Village should follow the letter of the law but understood the Street Commissioner's point that this was time off the employee had in the bank and he was feeling penalized. The Chief stated that this was where Council would make a decision as to whether comp or vacation time would count for the overtime. It would not be necessary to change the callout procedure. Instead, a line could be added to state that callouts are eligible for overtime no matter what the previous week hours were.

Porter concluded that this would be discussed by the Street Committee and Nairn offered HR involvement.

Nairn addressed the possibility of changing the payroll cycle from bimonthly to biweekly. The Fiscal Officer explained the problems with bimonthly payroll. Biweekly payroll would provide for more accurate tracking of vacation time and sick time. She explained this had not been changed in the past because it is a big undertaking behind the scenes. Individuals who pay child support, deferred comp, or have other direct payments withdrawn from their accounts would have to get those things changed prior to making the payroll change. She would have to

investigate details of the process involved with changing. The committee considered issues with the transition process. It would be a lot of work to make this change.

Regarding health insurance, Nairn stated that the Village had enjoyed small increases for many consecutive years in the cost of the health insurance. The Fiscal Officer added that the Village had been charged between .04% to 5% increases on average since 2015. Nairn stated that this year the Village received a 15% increase. The broker attempted to negotiate this with Medical Mutual to no avail. The Fiscal Officer explained that when Obama Care went into effect, the Village was able to stay with the insurance it had because it was a good plan but not considered a Cadillac plan. By remaining with this plan, the increases were based on the health of the Village's employees. The low rates were the result of healthy employees. However, the Fiscal Officer was told that the increase was the result of the demographic of the Village's employees. The Village's rates are still based on the employees alone and not on the general public. It has proven good to be grandfathered. However, if the Village were to step away from the plan, it would lose this status. Porter did not think it would be wise to leave Medical Mutual. The Fiscal Officer proposed the idea of setting up a wellness plan to help make the employees healthier. Nairn asked if it would be beneficial for the Village to renew. Carroll expressed support for this. The Mayor stated it would mean \$32,000 more. Porter stated the committee's recommendation would be to stay with medical mutual despite the increase.

The Fiscal Officer's Administrative Assistant hours were on the agenda. Nairn said she had been clamoring for the Fiscal Officer to have extra help. The Fiscal Officer indicated this was the Mayor's agenda item. The Mayor said one year ago, the Village gave the Administrative Assistant a \$2 per hour, \$3,000 per year pay raise and went from 16 hours to 24 hours. The Fiscal Officer stated that currently 166 hours per month had been approved which was just under full-time. The Mayor stated there were 86 pages of minutes last month and they were not minutes but transcripts. The Fiscal Officer stated that minutes had been scaled back. However, more detail is provided with contentious issues. The Mayor asked if the transcription should be farmed out to a service. The Fiscal Officer said no. Although Council had approved 166 hours per month, the Administrative Assistant had not worked this much. She was currently working at least four days a week with the possibility of increasing to 4.5 days to get caught up. Nairn asked how many hours per month it would be for full-time. The Fiscal Officer said it would be 40 hours per week. Porter asked if the Fiscal Officer wanted full-time for the Administrative Assistant, and she said she did and had enough work. She understands there was a cost associated with it. Porter stated it was a significant cost. The Mayor stated that for the month of September, the Administrative Assistant worked 129 hours and now it is up to 166 hours which was quite a jump. The Mayor stated the amount of work the Fiscal Officer had was because of the way things went this past year. The Fiscal Officer relayed that it was the last couple of years. Often, it was because of the way things were being done, which resulted in her office cleaning up. The State requirements had also increased, and the grants create more work. The Fiscal Officer felt she was skimming by to meet deadlines and not doing thorough due diligence as she should. Nairn added there had been an increase of public records requests.

The Mayor stated that the budget process needed to be improved. The Fiscal Officer expressed the desire to have a more thorough Budget Work Session. She added that issues, like the overtime issue discussed in the current meeting, took a lot of time. The Fiscal Officer added that follow-up was another issue. The Mayor suggested surveying Villages with a \$4 million budget, and 13 full-time employees to see how they were staffed. Porter asked if this had not already been done, and the Fiscal Officer said it was another thing that was talked about but not addressed again. The Fiscal Officer explained that each municipality is different. For example, she is a Fiscal Officer because the Village is a statutory village. Most Fiscal Officers work for a township in an elected position where the salary is set by the State. The Fiscal Officer of Russell Township, for example, is elected and is paid according to the State, but has two full-time assistants. Charter villages have a Finance Director who may have a tax person and administrative staff. The Mayor suggested taking a couple of months to gather information to determine if the Village were over or understaffed. Nairn did not see where the Village was overstaffed with the Fiscal Officer constantly trying to catch up. The Chief added that the Police Department has also been inundated with public records requested, which can take considerable time to fulfill.

The committee discussed the criteria to research, and the Fiscal Officer offered to reach out to her clerk's group for input and would expect a quick turnaround with information.

The Mayor stated that Moreland Hills shares a fiscal officer from Westlake who comes in once a week. The Fiscal Officer pointed out that he has full-time staff. The Mayor suggested completing the study by February 1st. The Fiscal Officer offered she would have the information sooner. The Mayor would ask his mayor's group. Nairn asked why this was going out a third of a year, and Porter agreed a decision could be made sooner. The Fiscal Officer would have something prepared for the next joint Finance/HR Committee meeting.

Porter made a motion to adjourn at 9:06 a.m.

Cindy Nairn, HR Chairwoman

Michael Carroll, Street Committee Chairman