

Hillsboro City Council Special Meeting
February 8th, 2010

Mayor Baran called the meeting to order at 6:30 pm.

Roll call was taken and those present were Mayor Baran, Commissioner Hill, Commissioner McCammack and Commissioner Sherer. Commissioner Trost was running late and arrived around 7:00 pm.

Mayor Baran explained the meeting was called to help educate the supervisors and acting supervisors about labor policies and procedures. City Attorney, Mark Cullen, would be leading the discussion and questions could be asked at anytime.

The first part of the discussion was on absenteeism, tardiness, and abuse of sick leave. The City expects employees to be reliable and report to work on time. Supervisors and acting supervisors need to hold accountable any employee who does not comply. Employees who abuse these items cause hardships on the other employees. Every employee is scheduled to be at work at a certain time and date and if they are not present they need to be held accountable. These infractions need to be addressed as soon as possible. Supervisors need to be mindful of the employees who are at work and try to change the behavior of employees who abuse work rules. When employees are going to be late for work they need to notify their supervisor as soon as possible. City Attorney Cullen went on to state that if an employee fails to notify their supervisor after missing a second consecutive shift it is assumed he or she has resigned. The contract calls for progressive discipline if there are infractions or tardiness, absenteeism and abuse of sick leave. Therefore, it is up to the supervisor to implement and document that procedure. Attorney Cullen recommended a basic form to assist in the documentation supervisors need to maintain. The form would use check boxes and short message areas to assist in providing documentation.

Attorney Cullen next discussed excessive absenteeism that which means time away from work without approval or notification. All circumstances are different and must be reviewed separately. It was also noted that it is the policy of the City to not use sick days as a substitute for vacation days. They may be used for illness to the employee or to care for immediate family members.

Supervisors need to make employees aware of the need for notification when they want to be off.

Mayor Baran commented to Attorney Cullen that sick days are cumulative and employees accrue 1 day per month. The question was, if a person has used all of his personal, vacation and sick days then what is the next step for the supervisor? Attorney Cullen stated they would be docked pay and should be written up. This would constitute an abuse of sick leave. A supervisor should ask that employee why he wants to be an employee if he doesn't show up for work.

City employee Jim May stated that if an employee is running out of sick time than he has probably been abusing it all along and action should have been taken earlier. City Attorney Cullen agreed with that premise and reminded everyone that when an abuse is noticed it needs to be addressed as soon as possible.

Mr. Cullen next reminded everyone that if an employee is sick for 3 working days he must present a doctor's release to the supervisor before he can return to work. This is for the protection of all parties involved.

Attorney Cullen explained further that the supervisor must look for patterns to validate what he considers sick leave abuse. The use of sick days on weekends or to extend weekends and calling off the day before or after a holiday are examples. These could be viewed as abuse but they need to be verified. Calling in and using sick days as soon as they are accrued is an obvious pattern and needs to be addressed. Employees also need to report the need for sick time in a timely manner. Calling in an hour after your shift starts is not timely and could be part of the pattern for sick leave abuse. Mr. Cullen took this time to reiterate that it is up to the supervisor to document these behaviors and ultimately try to change those same behaviors. If there is no documentation it is hard to ultimately dismiss an employee.

Attorney Cullen was given the example of an employee calling in sick at 10:00 am for a 7:00 am start time. It was Mr. Cullen's opinion that person be docked the entire day as well as documenting the late call. A supervisor may have a grievance filed against him but this is not a bad thing, having been filed on does not make a person a bad supervisor.

Assistant supervisor Jim May asked how long documentation remains in an employee's file and what would lead to its removal. Mr. Cullen responded by stating a one-time infraction remains on file according to contract for one year. If there is a subsequent filing for a similar type of offense within that year it remains indefinitely.

An example was given by Commissioner Sherer having to do with an employee missing work due to an illness caused by too much partying the day before would that constitute sick leave abuse? Attorney Cullen stated that in this case the behavior was by choice and would not constitute the use of a sick day.

Commissioner Hill posed the question of having two employees miss the same amount of sick days but you are sure one is abusing his days. How do you deal with that situation? Attorney Cullen stated first you must positively determine one is abusing sick days. Caring for family dependents that live in the home would be a legitimate use of sick days.

Mayor Baran posed a question concerning the taking of one vacation day at a time as allowed by the current contract and whether this has to be approved. Attorney Cullen stated advanced notice should be part of a policy and if the request would pose a hardship it could be denied. Cullen also stated that if the request would pose no work-related problems than why not approve it. Supervisors need to show some flexibility.

Commissioner McCammack noted that acting supervisors are still in the union and asked how they should handle disciplinary actions while they are in charge. Commissioner McCammack's opinion was that they should go to the commissioner or wait until the supervisor returns. City Attorney Cullen stated the acting supervisor should write the incident up as he was the responsible person at the time. The document should then be given to the supervisor on his return or the commissioner for any disciplinary action.

Everyone needs to know what the rules are and they need to be in writing. This way employees will know what is expected of them, especially concerning sick leave and vacation time off.

Commissioner McCammack suggested implementing the same rules and regulations currently being used in the Police Department so all departments are on the same page.

Mayor Baran then asked Attorney Cullen if it is permissible for a supervisor to contact him for advice on dealing with an issue.

Mr. Cullen stated this would be fine but there should be a policy in place as to when it would be necessary to make such a call. One such time might be when a supervisor is unable to contact his Commissioner or the Mayor.

Assistant supervisor Jim May asked what infractions could lead to dismissal by-passing the usual 3 step process.

Attorney Cullen offered these examples of immediate dismissal: striking another employee, theft, sexual harassment, insubordination, absent three days without explanation, reporting for work under the influence of alcohol or drugs, and employee dishonesty. You do not have to remove an employee for these infractions, but you could. The employer has the right to have an employee assessed to verify if he is capable of doing his job.

Mayor Baran asked if it was acceptable for an employee who gets ill during the day to ask another employee to report the fact to the supervisor. Attorney Cullen stated this would not be acceptable and the employee needs to make the contact himself. There are very few times when an employee cannot make contact with his supervisor, assistant supervisor or commissioner.

Attorney Cullen next addressed the Council stating their job is to set policy and they need to deal with the department heads and not instruct employees to do a job they would like to see done. They also need to follow the chain of command. A council needs to let their department heads do their jobs as they are the ones ultimately held accountable.

The question was asked as to how long a supervisor can wait to institute discipline?

Attorney Cullen stated initial documentation should be made immediately. The determination of disciplinary action should be made within one or two weeks.

There was a brief discussion concerning injuries on the job and how soon they need to be reported. The employee needs to notify the supervisor as soon as an injury occurs and the supervisor needs to report those as soon as possible.

Commissioner Hill brought up the concept of light duty for injured employees and if we are required to provide this.

Attorney Cullen stated the City has no legal obligation to provide light duty to an injured employee and if you offer it to one you need to offer it to any employee in a similar job. Here again, a policy needs to be established outlining if and when light duty could be implemented.

Mayor Baran suggested the departments view the procedures concerning vacation and sick days used by the police department and see if they can be used in their own department.

City Attorney Cullen offered to review the policy used in the police department and then give his opinion on how it could be adapted to the other departments.

Motion to adjourn was made at 8:00 pm by Commissioner Hill and seconded by Commissioner Sherer. Motion carried 5-0.

Respectfully submitted,
Dave Booher, City Clerk