

TOWN OF KIRKWOOD WORK SESSION

March 26, 2019

Present: Supervisor Gordon Kniffen
Councilman Robert Weingartner
Councilman Lewis Grubham
Councilwoman Linda Yonchuk
Councilman William Diffendorf, Jr.

Also Present: Robert McKertich, Attorney
Gayle Diffendorf, Town Clerk
John A. Finch Jr., Commissioner of Public Works
Marchie Diffendorf, Planning Bd. Chairman

1. Paid Family Leave – Karen Walsh.

Supervisor Kniffen explained that Paid Family Leave is a New York State program that will provide paid time off so an employee can bond with a new baby, care for a family member that is ill and a number of things. It's the second year that it's been in place and we have not presented it to our employees as yet, but Karen Walsh is here to tell us more about it.

Karen Walsh, from Insurance Office of America (IOA), provided the following information about New York State Paid Family Leave. New York State implemented Paid Family Leave in January 2018 and it will be phased in over a 4-year period, with 2019 being the second year. The benefit will be at its max in 2021 at which time it will be a 12-week benefit. This allows someone to take time off from work to bond with a newborn child, a newly adopted or fostered child as well as to care for a family member with a serious health condition or assist a loved one who is away on active military duty by taking care of their family or other things for them while they are away. New York State does have strict guidelines as to what qualifies as a serious illness or regarding military duty. Supporting documentation from a doctor or other professional is required. It is reviewed by NYS via the carrier and if it's determined that it's a qualifying benefit they are eligible to take that leave if it's offered.

All employers in NYS have to offer the Paid Family Leave with the exception of municipalities and school districts. You do have the option to opt in and offer Paid Family Leave if you choose to do so. If you opt in you have to submit an application to the NYS Workers Compensation Board, you will have to set forth guidelines as to which employees are eligible for the benefit, and you have to follow those guidelines. This is similar to how you opted in to offer the NYS statutory DBL (NYS disability). The class of employees you set to be eligible for DBL is the same class of employees that would be eligible for Paid Family Leave since it is a rider on the DBL policy. If you want to change those eligible you would have to submit that to the carrier. Anyone that you set in a class to be eligible for Paid Family Leave has to enroll, there is no option, unless they are under the required number of hours which is 20 hours a week or 175 days in a year. That is something you should keep in mind whether or not you offer the Paid Family Leave. You would have to decide whether the Town would pay for Paid Family

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Leave for the employee or have the employee pay for it. If you opt to have the employee pay for it, there might be issues if some don't want to be included but will still have to pay.

There is not a set premium. Currently we are at the 10-week benefit and the premium is based on 55% of the employee's average weekly wage (AWW) and it goes up to a maximum of what the State set to be the AWW, which they can change annually. Citing an example of an employee earning \$50,000 a year at a weekly salary of \$961.54, the rate as set by NYS right now is .153% which equates to a weekly contribution of \$1.47 or an annual contribution of \$76.50, which you could payroll deduct from the employee. Other salaries were reviewed with the notation that currently the max annual contribution is \$107.97. The premiums could increase next year based on claims. If they're losing money, obviously the rate will go up.

If you decide to implement Paid Family Leave, you should be giving the employees a 90-day notice of the payroll deduction if you're going to have the employee pay and it should stay in force for a 12-month period, and then another 90-day notice if you're going to terminate it.

In response to questions from the Town Board, Ms. Walsh responded with the following comments. Municipalities are not required to offer DBL, but you opted in to offer that. I don't know why municipalities are not required to offer these benefits. It could possibly be because there are unions involved which have higher benefits.

FMLA (Family & Medical Leave Act) is for employers that have 50 or more employees only. FMLA doesn't pay your salary but it does guarantees your job when you're out on leave.

In regard to Paid Family Leave, if the employee has health insurance through the Town, while they're out on leave you are required to continue to pay your portion of their health insurance as long as they continue to pay their premium. If they opt not to pay their portion while out on leave, you can cancel their health insurance but you have to reinstate it when they return to work. The employee's seniority continues to accumulate while they are out on leave.

In regard to whether or not sick days and vacation days accumulate while out on leave, Mr. McKertich explained that would depend on the Collective Bargaining Agreement, but usually it accumulates for time actually worked. It would be up to the Town to decide for non-union employees. Mr. McKertich will look into the union agreement. In regard to overtime, Ms. Walsh said I would have to verify it, but I think you equate overtime into it. The cost can be split between the employer and the employee.

Ms. Walsh said these are the things I wanted to be sure you were aware of before you have an employee meeting. In regard to what qualifies, Ms. Walsh said there is more specific information available from Shelter Point. I can't determine that, it's something that has to have supporting documentation that the carrier has to review and the carrier makes the final

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determination. A doctor would have to supply supporting certification if the request was for family care, depending on the situation involved.

Paid Family Leave can be taken in increments, such as a day at a time, and in the case of leave for the care of a newborn child, it can be for the father as well as the mother. You will have to keep track of all the time. There can only be one 10-week Paid Family Leave taken in a year. If you decide to opt in, it would be the same carrier as for DBL, which is Shelter Point. The year starts the first day of the claim. If a claim starts at the end of 2019 and goes into 2020, the employee will be paid the 2019 benefit for the duration of the claim.

Although there are municipalities that have opted to offer this to their employees, Ms. Walsh said she is not aware of who they are but she would check into it. If the Board decides to take this to the employees, most likely someone from Shelter Point would be present. When someone is out on leave, as long as all the documentation has been provided, the process to start receiving checks takes about a week or two, basically the same as DBL. The employee is supposed to give you a 30-day notice if possible, so you can prepare to cover their job, do the paperwork involved, etc.

In regard to using accumulated sick days before going out on Paid Family Leave, Ms. Walsh said you would have to set that guideline. Under your policy if you currently can't take sick days to care for someone then you couldn't use them before going out on Paid Family Leave. It was noted if the Town opted to have the employee pay the premium, the cost to the Town would basically be to hire someone to replace them, continue paying the health insurance premium and possibly administration costs. Councilwoman Yonchuk noted that we'd be hiring a replacement at less pay with no benefits, and we wouldn't be paying the salary of the employee on leave. Mr. McKertich noted that under the current FMLA employees have a right to take this time, but Paid Family Leave allows for them to be paid. FMLA does not apply to Kirkwood because we don't have 50 employees.

Discussion.

Councilman Diffendorf noted a concern that this might not be used appropriately given the fact you would be giving someone 10 weeks off a year and he also noted a concern as to who you would replace these people with. He said sometimes it's a position you can and sometimes it's not and I hate to see it abused. I don't think we should pay any of the costs. It's a huge benefit and I can't believe the cost will be that low. Councilman Grubham said I think at some point we'll find out it's going to be substantially higher. There could be someone that has built up 10 to 12 weeks of vacation and sick time and then with 10 to 12 weeks Paid Family Leave they could conceivably be off 6 months and still have a job and that definitely is an issue with filling the job and it could get really expensive. In response to Supervisor Kniffen, Mr. McKertich said the other towns I am involved with have opted to wait and see how this plays out and see what other municipalities are doing. This is the first time it has come up since it was initially adopted in 2018. Councilwoman Yonchuk said I would hate to try and sell this terrific

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coverage to our employees for less than \$2.00 a week and a year from now it has exploded to much more. We may want to wait. Supervisor Kniffen said he agrees with Councilman Diffendorf but there are others that wouldn't abuse it and they may question why they aren't entitled to it just because you're concerned that someone may abuse it. Councilman Weingartner said because we don't fall under the federal act I would seriously like to look at something for the Town to consider where someone would use their own sick time or vacation time since we don't have provisions to care for a sick family member. I think this is something that should be addressed. Right now sick time is only for when the employee is sick and sometimes you need to stay home for a sick child. As a teacher this happened to me a couple of times under FMLA and I used my sick time when I had it. In regard to Paid Family Leave, Councilman Weingartner questioned if we don't offer the insurance, if we have to follow the rule of giving the time off. Mr. McKertich said we could set an internal policy procedure that applies to Town employees that would allow them either to use their own sick time to care for a sick family member or allow them to take time off even after they've exhausted their sick leave at an unpaid status and preserve their position. This can be done through the CBA and as a policy. Supervisor Kniffen said I kind of like this idea and we have a Benefits Committee that could consider this and make a recommendation to the Board. Councilwoman Yonchuk said we have to rely on our attorney's guidance on this. If we want to establish a policy that is also covered under the CBA we have to get an MOU, if it changes the CBA, because we have to treat all employees equally. Supervisor Kniffen said it would be a benefit to everyone so we would have to discuss it with the union rep and he will discuss it with his people. I can't see where they'd have a problem with it but we don't want to treat just non-union employees differently. That's not been our goal since the union started. We want to treat everybody the same. In looking at amending our internal benefits to make them even better, we would be allowing employees to use sick time for other family members as well as for themselves.

Supervisor Kniffen said I knew about this last year but wanted to wait to see how it played out. I don't want to suppress this and not let the employees know about it, so I decided we should discuss it. Councilwoman Yonchuk said if we decide to offer unpaid leave to care for a sick family member, employees may question at that point why we aren't doing paid leave. It was noted that it seems that the union would have brought this up to the members. Mr. McKertich said surprisingly, the union members in other towns that he works with have not brought this up. Supervisor Kniffen suggested that Board members think this over and we'll take it to the Benefits Committee to consider.

2. Discussion – Resolution hiring Everett Benedict as Laborer to work in the Department of Public Works effective April 17, 2019 for 90 days at a rate of pay of \$12.82. (JAF)

Mr. Finch said Everett Benedict is one of our 90-day hires from last year and I would like to hire him again this year. We will also need a couple for the parks and a couple for the water/sewer/highway. No advertisement or interviews are required since this is a re-hire.
Resolution.

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3. Discussion – Request from John Finch to attend the 2019 Highway School on June 3-5, 2019 at Ithaca College at a cost of \$110, with all reasonable expenses paid. (JAF)

Resolution.

4. Discussion – RTU Control Panel Upgrades for Water & Sewer. (JAF)
Mr. Finch said we budgeted \$9,920 in the 2019 water and sewer budget for two control panel upgrades at Kirkwood Avenue and Sunset Drive sewer stations and four tank sites. We split these up over three years. The plan was to do two each year, 2019, 2020 and 2021. Since then we updated the radio controls for the Scada System, which were \$23,000, and once we upgraded those the owner of Scadatek looked over the different controls and realized instead of putting in new RTUs, which are the controls for those tank sites, he could go with a much simpler device at each tank site. He came back with a price of \$6,090 to do all four tanks this year. Instead of paying \$9,920 for three years we would pay \$9,920 plus the additional \$6,090 this year and we would eliminate the \$9,920 for the next two years for a savings of \$13,750. They would all be under the brand new controls and the Scada System would be all updated. The total cost would be \$16,110. The \$6,090 would be taken from water reserves. Resolution.

5. Discussion – Resolution appointing Fred Nichols as Member, Board of Assessment Review to fill the unexpired term of Jason Griffin, which will expire on September 30, 2023. (GEK)

Resolution.

6. Discussion – Request from Chad Moran to attend STBOA training on April 24, 2019 at the Port Watson Mini-Conference Center in Cortland, NY at a cost of \$35.00.

Resolution.

7. Discussion – Feedback on NYSEG – Lighting Change Savings. (WJD)
Councilman Diffendorf reported that since the last meeting he spoke with NYSEG about street lighting. He noted that NYSERDA is not an option. NYSEG said we would save \$21,369 annually by going with the LED streetlights. Last year they said we spent \$38,762 on street lighting, which I verified is correct, and they are saying we would spend a total of \$17,393 a year for street lighting. That includes the supply charge, annual charge and the delivery charge. It sounds like a great deal. The biggest decision is whether to go with white or yellow lights and they all have to be one color or the other.

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Supervisor Kniffen said he thinks this is interesting because we turned off lights in the past and saved \$30,000 a year and we did look at LED lighting ourselves and brought in people that did it for the City of Binghamton and the savings at that time was only going to be minimal. Councilman Diffendorf said we would have been in the maintenance business before but now things will continue on as normal. We can change any of the wattages that we want to but that's NYSEG's expertise so I think we should go with that. Since NYSEG is working in other towns it will take a while for this to happen. Councilmen Grubham and Diffendorf reviewed the wattage chart provided by NYSEG. Councilman Diffendorf said the illumination will be the same and we need to decide the color by our meeting next week. Councilman Weingartner said he has white on his tractor and there is a huge difference between white and yellow with being able to see. White seemed to be the choice for most Board members. Marchie Diffendorf noted his understanding is that these lights will be more directional, down lighting. Resolution to convert to LED streetlights including the unexpired life cost of \$8,755.10, a determination of either white or yellow, and to go with NYSEG on the wattage/lumen of each light.

8. Audit of Claims.

Councilman Weingartner questioned if there are any PESH issues with the tick control pesticide purchased for clothing. Mr. Finch said it's a spray for clothing that lasts up to 6 washes. Our PERMA rep recommended permethrin, which is the spray we're using. Resolution.

9. Procurement Policy.

Supervisor Kniffen noted that this policy needs to be updated since we no longer have a "Town Attorney" or "Deputy Town Attorney". Resolution to change wording to "Attorney for the Town".

10. Sexual Harassment Training.

Supervisor Kniffen reminded everyone that this training is scheduled for tomorrow at 2 PM.