

MINUTES OF THE COUNCIL INTERNAL AFFAIRS COMMITTEE
OF THE METROPOLITAN SERVICE DISTRICT

July 27, 1989

Council Chamber

Committee Members Present: Mike Ragsdale (Chair), Gary Hansen (Vice Chair), Tanya Collier and David Knowles

Committee Members Absent: Larry Bauer

Chair Ragsdale called the meeting to order at 4:15 p.m.

1. Consideration of Minutes of April 27 and May 11, 1989

Motion: Councilor Collier moved for approval of the minutes.

Vote: Councilors Collier, Hansen, Knowles and Ragsdale voted aye. Councilor Bauer was absent. The vote was unanimous and the minutes were approved.

2. Consideration of Resolution No. 89-1107, For the Purpose of Amending the Pay Plan for Non-Represented Employees

John Leahy, Personnel Manager, said the AFSCME agreement called for a 4.09 percent retroactive pay increase with a series of step increases in 1988 as well as a 5 percent COLA increase July 1, 1989. He said Executive Officer Cusma felt non-represented and represented employees should be treated equally. He said the resolution called for a 5 percent COLA increase for non-represented employees July 1, 1989, as well as a series of steps similar to the AFSCME agreement for represented employees.

Councilor Collier asked what the current Metro Code said about non-represented employees. Mr. Leahy said the current Personnel Code regarding non-represented employees contained elaborate language on merit increases based upon performance evaluations for Metro employees. He said the language applied uniquely to non-represented employees because the contract applied to all other employees. He said Executive Officer Cusma thought pay adjustments based upon performance evaluations were inequitable for employees who performed essentially the same duties throughout the agency. He said Resolution No. 89-1107 mirrored the AFSCME agreement for represented employees and would result in better labor relations for non-represented employees as well as represented employees.

Councilor Collier said previously when the Metro Council approved pay plans everyone was unrepresented while AFSCME had filed a petition. She said the Council left the AFSCME agreement to the employees to decide and subsequently contract negotiations took place. She said when the Council approved the pay plan, they approved it with the merit system for two reasons. Councilor Collier said the first reason was to force the issue of performance evaluations which had never been completed regularly. She said the second reason was to award wage increases based on merit. She said the Council felt the pay plan would start employees on an equitable basis with

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all personnel categories in line and future wage increases given on the basis of an evaluation system. Councilor Collier asked why the Executive's proposed pay plan was implemented before it was adopted by the Council. She noted employees had received a memorandum which notified them of the new pay plan to be instituted.

Mr. Leahy said the July 1, 1989, pay increase was included in the first paycheck for non-represented employees except for those who received a rate of pay according to the Kinney Pay Plan. He said there were approximately 15 people who had "topped out" and would be eligible for 5 percent increases dependent on their ceiling. He noted during the budget process for FY 1989-90, it was anticipated there would be an across the board pay increase for represented and non-represented employees which became part of budget documentation. He said the Council had already budgeted the funds necessary for pay increases called for.

Councilor Collier said she knew the Council approved the COLA increase. Councilor Collier did not object to COLA increases but said the Council approved the merit, and not the step, system. Mr. Leahy said the previous system allowed percentage increases referred to as merit increases of 1 to 5 percent based upon the supervisor or manager's judgment. He said Executive Officer Cusma decided the FY 1988-89 step assignments should be replaced with steps similar to those contained in the AFSCME agreement.

Councilor Collier asked Dan Cooper, General Counsel, if Executive Officer Cusma asked his opinion about the revised pay plan. Mr. Cooper said she did not. He said he was asked to review materials by Council staff and had responded to Council Administrator Don Carlson's questions on the issues. He said after review of the Metro Code, he found no Code violation which would claim that any funds were improperly used. He said there was a Code requirement for merit increases and said it was still operative and that the Executive Officer was obligated to see those increases carried out. He said transition from the previous pay plan to the Kinney pay plan and administrative adjustments as well as the COLA increase was within the Executive Officer's authority to make compatible. He said employees, notwithstanding COLA increases, under the Metro Code were still entitled to a merit increase. He said the Kinney system adopted by the Council in September eliminated certain terms contained in the previous pay plans the Council adopted referred to in the Metro Code but never defined therein. He said when the Council adopted the Kinney Plan the concept of entry and maximum merit rates was eliminated.

Councilor Collier said if everyone received an automatic merit increase there would be no merit pot left to pay merit increases. Mr. Cooper said when staff moved from pay range to pay range on the Kinney System, the Code authorized the Executive Officer to carry out the adoption of the Kinney Plan and to assign employees according to their classification within that plan. He said unless the Council amended the Code, Metro still had the merit system and merit evaluations still had to be done.

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Mr Carlson asked if the procedure to give employees who received merit raises without evaluations was properly done. Mr. Cooper said based on the information in Council staff's memorandum "Resolution No. 89-1107 -- Amending the Pay Plan for Non-Represented Employees" dated July 26, 1989, he did not find anything to indicate that payment to employees was beyond the authority of the Executive. He said merit evaluations still had to be done and employees were entitled to merit evaluations under the Metro Code. He said the merit system provided for in the Code relied on the Executive's discretion. Mr. Carlson asked if the Executive Officer could authorize salary increases without employee evaluations under the current Metro Code. Mr. Cooper said such action was appropriate, but had to be individual action by the Executive Officer and consistent with the purposes of the Code in that the increase was appropriate for whatever the purpose was. He said to move to a step or a new salary range and then to go back and implement the Kinney Pay Plan in conjunction with the COLA was not an abuse of the discretion granted the Executive Officer. He said from that point to automatic step increases on an annual basis without merit evaluations was not the Metro's Code intent.

Councilor Collier said employees were already on the steps they were supposed to be at according to the Kinney Plan and asked how employees could be moved to other steps named differently again. She said employees were already organized at their appropriate ranges. Mr. Cooper said the Metro Code referred to one plan which was a merit plan and another pay plan which was not fully defined and not contained anywhere in the Kinney Plan because the Executive Officer's discretion was to manage the incentive range. He said other Code provisions referred to the COLA when the natural merit rate was adjusted by the Council, and that employees should be adjusted accordingly, but said it was not mandatory. He said the Code contained broad language which granted authority to the Executive Officer to administer the pay plan with the intent to produce equity. Mr. Cooper said all those factors combined resulted in a map of how employees moved from step to step. He said the Kinney resolution contained no COLA language and in subsequent Council action there was no COLA language. He said it was necessary to interpret such language and the Council's intent in adoption of the budget to find that there was any intent to give any staff a COLA. He said he found no basis to say further Administrative adjustment to place staff at an appropriate place within the Kinney System was unjustified. He said beyond those issues, other issues had to be clarified. He said the Metro Code would have to be revised to match Resolution No. 89-1107.

Councilor Collier asked how funds for discretionary funds for managers to give merit raises would be obtained if staff was given automatic increases and put on steps and nominal funds left for raises. She said there were no funds budgeted in addition to the steps for merit increases. She said that was how Resolution No. 89-1107 differed from current policy. She said the Council could change existing policy, but said she would not vote aye on

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such action because the Council had agreed on a certain policy that they wished managers to follow for various reasons.

Councilor Knowles asked Mr. Leahy if there were any merit evaluations in connection with the pay increase in question. Mr. Cooper said none were given. Councilor Knowles asked if the Code provided for at least an annual employee evaluation. Mr. Cooper said that was correct. Councilor Knowles said in that case the plan was out of step with the Metro Code and with Council policy. Councilor Knowles asked if merit evaluations were required before any pay advancement. Mr. Cooper said the Code indicated if evaluations were not done in a timely fashion any pay increase which would result from such an evaluation was retroactive back to the date of the supposed evaluation. Councilor Knowles said he thought it was clear the Council preferred a merit-based system. He said the Administration preferred a non-merit-based system and had already instituted it without prior Council approval.

Councilor Collier said with regard to salary increases, the Code established procedures for Metro to give staff salary adjustments on a planned basis per merit evaluation. Councilor Collier said the Code was clear that a merit evaluation came before the raise. Councilor Collier said increases required the supervisor's recommendation and the department head and personnel manager's approval prior to providing such an increase. She said the Code required every effort be made to complete the evaluation by the employee's anniversary date. Councilor Collier noted certain criteria was used in granting merit salary increases and a list of criteria for the manager to decide what percentage increase the employee should receive.

Councilor Knowles said the Council encouraged the merit system because of their own analysis of Council staff. Councilor Collier asked what action should be taken since non-represented staff had received their raises on their July 15, 1989, paychecks. Mr. Carlson said granting COLA's was appropriate since they were tied to the adoption of the pay plan. Mr. Carlson said Council staff provided a pay plan schedule which covered probationary pay, steps and topped out salaries. Mr. Carlson said it would be appropriate to allow the 4.09 percent increase already granted as last year's COLA, any increases based on evaluations done, and then the FY 1989-90 COLA.

Councilor Collier asked if there were any funds left with which to give staff merit increases. Mr. Carlson said the new step system was instituted last year. He said the questionable action was the automatic raise. Councilor Collier said if Metro had already moved to the step system, then employees had already had their merit increase. Mr. Carlson said employees had not had their merit increases.

Councilor Knowles said the Council was not intent on asserting authority, but said it was disturbing that existing policy was ignored. Councilor Collier liked the merit system and wished to keep it.

Councilor Hansen asked Council staff to draft a resolution to replace Resolution No. 89-1107 to address the merit issue and also clarify incomplete language Council staff identified. He said he did not care for merit pay, but said this action required major re-evaluation of Metro Personnel policy, and that such a change without Council occurrence and then a request to adopt such policy was disturbing.

Motion to Table: Councilor Hansen moved to table Resolution No. 89-1107.

Chair Ragsdale said the motion to table was non-debatable. He asked for the Committee vote.

Vote on Motion to Table: Councilors Collier, Hansen, Knowles Ragsdale voted aye. Councilor Bauer was absent. The vote was unanimous and the motion to table the resolution passed.

Councilor Hansen requested Council staff to prepare a new resolution and asked if ordinance changes would be required in this case. Mr. Carlson requested appointment of a subcommittee to work on the new resolution. Chair Ragsdale appointed Councilors Collier and Hansen to serve on the subcommittee.

Councilor Collier requested that whoever drafted the pay plan discussed at this meeting attend the next Internal Affairs Committee meeting to explain it.

Chair Ragsdale adjourned the meeting at 4:50 p.m.

Respectfully submitted,



Paulette Allen
Committee Clerk
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