

**HUMAN RESOURCES COMMITTEE
SPECIAL MEETING MINUTES – April 1, 2019**

MEMBERS PRESENT: Ruth Ludwig, Craig Sutherland, Jack Sweeney

OTHERS PRESENT: Debbie Bergstrom, John Kiel, Cammi Koneczny, Frog Prell, Jon Shamla

The meeting was called to order at 4:00 pm.

- 1) **Legal counsel from City Attorney Frog Prell as to what takes precedence; Past Practice, FLSA, Union Contract, or City Policy, as it relates to Union #27 grievance #1-27-19.**

City Attorney Prell addressed Past Practice, FLSA, Union Contract, and City Policy.

Prell stated that the law takes precedence. In this case the law would be FLSA. You can have past practices, policies, and contracts, but you can't circumvent the law. He explained that under FLSA law, infrequent and insignificant periods of time beyond the scheduled working hours such as making a quick phone call or checking an e-mail for a period of seconds to check on the status of a case that may or may not happen, does not arise to the level of doing work. Efforts made by employees, while certainly work related, do not constitute having done work to which compensation should be expected. Checking e-mails and voice mail messages are an example, under FLSA, that shouldn't obligate an employer to pay him or her. This issue has come up and has been litigated by judges and arbitrators who ruled that those are de minimis efforts that do not constitute work that compensation should be expected.

Union contract Article 9B states "When an employee works in excess of their regular work day or regular work week..." The key word there is "work". The employee has to have worked.

Union contract Article 10B states "In case of required court appearances, officers are to be paid a minimum of three hours at the time and on-half rate..." The operative language there is "required court appearances". The required court appearance became a non-event when it was cancelled and the employee was notified prior to that event.

Prell said that his understanding was that SPD has had a long standing past practice in not paying officers for court hearings that were cancelled and their appearance was not required. The past practice includes the written communication from the district Attorney's office which explains how the officer should check to see if a hearing is cancelled or not. This past practice was in place for 20 some years.

In reference to City Policy: Fair Labor Standards Act Work Policies #3. "No employee shall engage in any work at home or take any work home unless at the express direction of the employee's supervisor." This goes back to FLSA to see what it means to have worked.

No action required.

The meeting adjourned at 4:24 pm.