



DEPARTMENT OF HUMAN RESOURCES MANAGEMENT
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Date: October 09, 2006
To: Barbara McDaniel, Assistant Town Clerk
From: Mark Alan, Director of Human Resources Management
Subject: Memorandum of Withdrawal - September 06, 2006, Town Council Agenda Item Number 5.17

Pursuant to your request, today, I am providing you with this “Memorandum of Withdrawal” for the following item, which had been agendized on the September 06, 2006, Town Council Agenda, under the consent agenda as item number 5.17; subsequently tabled; and withdrawal of which had been previously indicated:

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE PERSONNEL RULES AND REGULATIONS, RULE IV, ENTITLED “COMPENSATION PLAN”, SECTION 9, ENTITLED “OVERTIME” AND SECTION 11, ENTITLED “COMPENSATION FOR SALARIED, EXEMPT EMPLOYEES DURING EMERGENCY MANAGEMENT” PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

AGENDA DATE: September 07, 2006

TO: Mayor and Council Members

FROM/PHONE: Mark Alan, Director of Human Resources Management (954) 797-1169

PREPARED BY: Mark Alan

SUBJECT: Resolution Amending the Declared Emergency Compensation and Overtime Compensation Provisions of the Personnel Rules and Regulations

AFFECTED DISTRICT: Not Applicable

TITLE OF AGENDA ITEM: A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE PERSONNEL RULES AND REGULATIONS, RULE IV, ENTITLED "COMPENSATION PLAN", SECTION 9, ENTITLED "OVERTIME" AND SECTION 11, ENTITLED "COMPENSATION FOR SALARIED, EXEMPT EMPLOYEES DURING EMERGENCY MANAGEMENT" PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: The subject item has been agendized under the consent agenda. This resolution amends Rules and Regulations, Rule IV, entitled "Compensation Plan", Section 9, entitled "Overtime" and Section 11, entitled "Compensation for Salaried, Exempt Employees during Emergency Management" as indicated in the attached Exhibit "A".

Pursuant to Resolution 2006-140, adopted during the May 17, 2006, Town Council Meeting, which ratified the Collective Bargaining Agreement (CBA) between the Town and the Florida State Lodge, Fraternal Order of Police, Inc (FOP) General Employees (civilian) Bargaining Unit, bargaining unit employees who report to work during a declared emergency are paid two (2) times their regular hourly rate of pay for all hours worked during the declared emergency. Furthermore regular overtime is paid to bargaining unit employees at one and one-half (1 ½) times the hourly rate of pay for actual hours worked in excess of thirty-seven and one-half (37.5) hours.

The aforementioned amendments were developed to provide non-represented employees with compensation equivalent to civilian bargaining unit employees represented by the FOP for the duration of the employee's involvement during a declared emergency and the residual clean-up necessary to restore the town to normal operations and for regular overtime.

PREVIOUS ACTIONS: Not Applicable

CONCURRENCES: Not Applicable

FISCAL IMPACT:

Has request been budgeted? Yes

Account Name: Employee Salary and Benefits Accounts

RECOMMENDATIONS: Staff recommends approval of the Resolution.

Attachment(s):

- Resolution
- Exhibit "A"

c: Ken Cohen, Acting Town Administrator
Russell Muniz, Acting Assistant Town Administrator/Town Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE PERSONNEL RULES AND REGULATIONS, RULE IV, ENTITLED "COMPENSATION PLAN", SECTION 9, ENTITLED "OVERTIME" AND SECTION 11, ENTITLED "COMPENSATION FOR SALARIED, EXEMPT EMPLOYEES DURING EMERGENCY MANAGEMENT" PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Resolution 2006-140, adopted during the May 17, 2006, Town Council Meeting, which ratified the Collective Bargaining Agreement between the Town and the Florida State Lodge, Fraternal Order of Police, Inc (FOP) General Employees (Civilian) Bargaining Unit, bargaining unit employees who report to work during a declared emergency are paid two (2) times their regular hourly rate of pay for all hours worked during the declared emergency; and

WHEREAS, pursuant to Resolution 2006-140, regular overtime is paid to FOP Civilian Bargaining Unit employees at one and one-half (1 ½) times the hourly rate of pay for actual hours worked in excess of thirty-seven and one-half (37.5) hours.

WHEREAS, the Town of Davie has reviewed Rule IV, entitled "Compensation Plan", Section 9, entitled "Overtime" and Section 11, entitled "Compensation for Salaried, Exempt Employees during Emergency Management" of the Town of Davie Personnel Rules and Regulations; and

WHEREAS, the Town of Davie following said review recognizes the need to revise provisions of said sections in order to provide non-represented employees with compensation equivalent to civilian bargaining unit employees represented by the FOP for the duration of the employee's involvement during a declared emergency and the residual clean-up necessary to restore the town to normal operations and for regular overtime; and

WHEREAS, it is recommended that Town of Davie Personnel Rules and Regulations, Rule IV, entitled "Compensation Plan", Section 9, entitled "Overtime" and Section 11, entitled "Compensation for

Salaried, Exempt Employees during Emergency Management” be amended as indicated in a copy of said amended Sections of Rule IV, Section 9 and Section 11 which is hereto attached as Exhibit “A”; and

WHEREAS, it is in the best interest of the Town of Davie to approve said amendments to Personnel Rules and Regulations, Rule IV, Section 9 and Section 11, to provide non-represented employees with compensation equivalent to civilian bargaining unit employees represented by the FOP for the duration of the employee’s involvement during a declared emergency and the residual clean-up necessary to restore the town to normal operations and for regular overtime.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The Town Council of the Town of Davie does hereby approve the amendments of Town of Davie Personnel Rules and Regulations, Rule IV, entitled “Compensation Plan”, Section 9, entitled “Overtime” and Section 11, entitled “Compensation for Salaried, Exempt Employees during Emergency Management” hereto attached as Exhibit “A”.

SECTION 2. If any section, subsection, sentence, clause, phrase, or portion of this Resolution is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of the Resolution.

SECTION 3. Upon its passage and approval, this resolution shall take effect immediately prior to the Tropical Storm Ernesto locally declared emergency which began August 29, 2006, at 6:00AM.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2006

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2006

PERSONNEL RULES AND REGULATIONS

Town of Davie, Florida

Codified Through Ordinance No. 2003-36, adopted September 17, 2003

(Further Town Council action addressed via Resolution)

RULE IV. COMPENSATION PLAN

Section 9. Overtime.

Overtime for eligible employees (not including sworn and/or certified employees of the police and fire departments who have made elections pursuant to Section 7(k) [of the Fair Labor Standards Act (FLSA)]) shall be defined as actual hours of work performed in excess of ~~forty (40)~~ thirty-seven and one-half (37.5) hours in any one work week. Regular overtime will be paid at one and one-half times the hourly rate of pay. Compensation during a locally declared emergency will be limited to a rate of two times the hourly rate of pay for the duration of the employee's involvement during the declared emergency and the residual clean-up necessary to restore the town to normal operations. All overtime work must be previously authorized by the town administrator or designee. The town administrator may designate department directors who have the authority to authorize overtime. In calculating an employee's entitlement to overtime, only actual hours worked shall be counted unless it is otherwise provided for in a collective bargaining agreement. Compensatory time, as set forth in the FLSA, may be substituted for overtime pay if so authorized by the town administrator or designee or by department directors who have been authorized to do so by the town administrator. Any approved compensatory time generated must be used by the employee within the pay period it was earned in compliance with provisions of the FLSA.

Section 11. Compensation for Salaried, Exempt Employees during Emergency Management.

In keeping with the town's emergency management plan, crisis response directors and emergency support personnel are at managerial and director levels of employment with the town. As such, these classifications are not traditionally positions to receive overtime pay for excess hours worked in accordance with executive exemption definition as outlined in the Fair Labor Standards Act (FLSA). The industry notes and the law regards the unusual circumstances of a natural disaster and/or crisis situation which requires exempt, salaried employees to respond to such incidences for the duration of the crisis and its clearing. As such, salaried, exempt employees are eligible to receive compensation contingent upon a locally declared emergency at a rate ~~of one and one-half times of~~ limited to two times their hourly rate of pay ~~in excess of forty (40) hours worked per week,~~ for the duration of their involvement during the declared emergency and the residual clean-up necessary to restore the town to normal operations.

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