

Jason Pugh

From: Charlie McVea [cmcvea@dwwattorneys.com]
Sent: Thursday, December 12, 2013 11:06 AM
To: jpugh@gautier-ms.gov
Cc: Samantha Abell; Celeste Laws
Subject: RE: legal sufficiency

Approved.

Charlie

W. Charles McVea
Dogan & Wilkinson, PLLC
734 Delmas Avenue
P.O. Box 1618
Pascagoula, MS 39567
(228) 762-2272
(228) 762-3223 Fax

From: Jason Pugh [<mailto:jpugh@gautier-ms.gov>]
Sent: Thursday, December 12, 2013 10:58 AM
To: Charlie McVea
Cc: 'Samantha Abell'
Subject: legal sufficiency

Charlie,

The attached is going on the agenda for Tuesday night in regards to the Holiday pay. Can you approve for legal sufficiency as per our procedure?

Thanks,

Jason D. Pugh

Human Resources Director
City of Gautier
3330 Hwy. 90
Gautier, MS 39553
Office (228) 497-8000
Cell (228) 219-6194
Fax (228) 497-9984
email: jpugh@gautier-ms.gov

**CITY OF GAUTIER
MEMORANDUM**

To: Samantha Abell, City Manager
From: Jason Pugh, Human Resources Director
Date: 12/12/13
Subject: Revision to Holiday Pay Policy

REQUEST

Approval of a revised holiday pay policy to authorize eight (8) hours of holiday pay for firefighters.

This policy change shall be effective starting with the pay period beginning 12/14/13.

BACKGROUND:

On December 20, 2011, the Gautier City Council approved a change to the way holidays are paid to police officers (Order No. 220 2011) by giving all police department shift employees eight (8) hours of holiday pay for each holiday whether they worked the holiday or not. Firefighters were not affected by this change and were paid according to their union contract.

DISCUSSION:

Mississippi Code Ann. (21-17-5(3)) declares that “the governing authority of any municipality shall enact leave policies to ensure that a public safety employee is paid or granted compensatory time for the same number of holidays for which any other municipal employee is paid.”

In order to ensure fair and equitable treatment for all employees the City of Gautier should revise the holiday policy as attached to include eight (8) hours of holiday pay for all fire department shift employees whether they work the holiday or not. The policy revision will henceforth include all employees.

RECOMMENDATION:

The change has been reviewed and approved as legally sufficient by the City Attorney. The City Manager recommends approval of an order to authorize a revision to the holiday policy to pay eight (8) hours of holiday pay to firefighters for all legal holidays.

City Council may

- 1) authorize the proposed Holiday policy as presented;
- 2) authorize the proposed Holiday policy with changes; or
- 3) disapprove the Holiday policy as presented.

ATTACHMENT(S):

Revised Holiday Policy (Strike-Thru (old)/ Underline (new))
Miss. Code Ann. 21-17-5

SECTION 9. Holidays.

The City celebrates the following holidays off with pay for probationary and regular full-time employees. These holidays, or the dates when they occur or are observed, may change by proclamation of the Governor or the City Council or federal, state, or local law and such change(s) govern and override the listings contained in this employee handbook.

NEW YEAR'S DAY	January 1
MARTIN LUTHER KING, JR.	3rd Monday of January
PRESIDENT'S DAY	3rd Monday of February
GOOD FRIDAY	Friday before Easter
MEMORIAL DAY	Last Monday of May
INDEPENDENCE DAY	July 4
LABOR DAY	1st Monday of September
VETERAN'S DAY	November 11
THANKSGIVING DAY	4th Thursday of November
CHRISTMAS DAY	December 25

~~These holidays, or the dates when they occur or are observed, may change by proclamation of the Governor or the City Council or federal, state, or local law and such change(s) govern and override the listings contained in this employee handbook.~~ Holidays are observed from 12:00 a.m. (midnight) the eve of the holiday to 12:00 a.m. (midnight) the day of the holiday. Non-Public Safety employees will normally not be required to work on a day designated as a holiday and will receive their normal pay. Non-Public Safety employees who are required to work on a day designated as a holiday will receive straight time for all hours actually worked on the holiday, in addition to their regular pay.

The City compensates holiday pay for all employees as follows:

- 1) All employees who normally work a 40 hour week shall have the above listed days off with no reduction in pay. Any 40 hour per week employee who is required to work on one of the days listed above shall receive straight time pay for each hour actually worked in addition to their regular pay.
- 2) *Police Department* employees who normally work shifts (168 hours in a 28 day cycle) shall receive eight (8) hours straight time pay in addition to their normal pay for each of the days set out above.
- 3) *Fire Department* personnel who normally work shifts (216 hours in a 28 day cycle) shall be paid Time and One half for each hour they work on each of the days set out above per the terms of their contract. Order No. 220-2011 Approved on December 20, 2011 (Pending Negotiation) receive eight (8) hours straight time pay in addition to their normal pay for each of the days set out above.

When a holiday falls within an eligible employee's approved annual or medical leave period, the holiday shall not be counted as a leave day in computing the amount of leave deducted. An employee who is away from work and not in a paid leave status the day immediately preceding or following a holiday will not receive any pay for the holiday.

FOCUS™ Terms Search Within Original Results (1 - 1) [Advanced...](#)
[View Tutorial](#)

View Full

← 1 of 1 →

[Return to Results](#) | [Book Browse](#)

Miss. Code Ann. § 21-17-5 (Copy w/ Cite)

Pages: **2**

Miss. Code Ann. § 21-17-5

MISSISSIPPI CODE of 1972

*** Current through the 2013 Regular Session and 1st and 2nd Extraordinary Sessions ***

TITLE 21. MUNICIPALITIES CHAPTER 17. GENERAL POWERS

Miss. Code Ann. § 21-17-5 (2013)

§ 21-17-5. Powers of governing authorities

(1) The governing authorities of every municipality of this state shall have the care, management and control of the municipal affairs and its property and finances. In addition to those powers granted by specific provisions of general law, the governing authorities of municipalities shall have the power to adopt any orders, resolutions or ordinances with respect to such municipal affairs, property and finances which are not inconsistent with the Mississippi Constitution of 1890, the Mississippi Code of 1972, or any other statute or law of the State of Mississippi, and shall likewise have the power to alter, modify and repeal such orders, resolutions or ordinances. Except as otherwise provided in subsection (2) of this section, the powers granted to governing authorities of municipalities in this section are complete without the existence of or reference to any specific authority granted in any other statute or law of the State of Mississippi. Unless otherwise provided by law, before entering upon the duties of their respective offices, the aldermen or councilmen of every municipality of this state shall give bond, with sufficient surety, to be payable, conditioned and approved as provided by law, in a penalty equal to five percent (5%) of the sum of all the municipal taxes shown by the assessment rolls and the levies to have been collectible in the municipality for the year immediately preceding the commencement of the term of office of said alderman or councilman; however, such bond shall not exceed One Hundred Thousand Dollars (\$ 100,000.00). For all municipalities with a population more than two thousand (2,000) according to the latest federal decennial census, the amount of the bond shall not be less than Fifty Thousand Dollars (\$ 50,000.00). Any taxpayer of the municipality may sue on such bond for the use of the municipality, and such taxpayer shall be liable for all costs in case his suit shall fail. No member of the city council or board of aldermen shall be surety for any other such member.

(2) Unless such actions are specifically authorized by another statute or law of the State of Mississippi, this section shall not authorize the governing authorities of municipalities to (a) levy taxes of any kind or increase the levy of any authorized tax, (b) issue bonds of any kind, (c) change the requirements, practices or procedures for municipal elections or establish any new elective office, (d) change the procedure for annexation of additional territory into the municipal boundaries, (e) change the structure or form of the municipal government, (f) permit the sale, manufacture, distribution, possession or transportation of alcoholic beverages, (g) grant any donation, or (h) without prior legislative approval, regulate, directly or indirectly, the amount of rent charged for leasing private residential property in which the municipality does not have a property interest.

(3) Nothing in this or any other section shall be construed so as to prevent any municipal governing authority from paying any municipal employee not to exceed double his ordinary rate of pay or awarding any municipal employee not to exceed double his ordinary rate of

compensatory time for work performed in his capacity as a municipal employee on legal holidays. The governing authority of any municipality shall enact leave policies to ensure that a public safety employee is paid or granted compensatory time for the same number of holidays for which any other municipal employee is paid.

(4) The governing authority of any municipality, in its discretion, may expend funds to provide for training and education of newly elected or appointed municipal officials before the beginning of the term of office or employment of such officials. Any expenses incurred for such purposes may be allowed only upon prior approval of the governing authority. Any payments or reimbursements made under the provisions of this subsection may be paid only after presentation to and approval by the governing authority of the municipality.

HISTORY: SOURCES: Codes, 1892, § 2925; 1906, § 3316; Hemingway's 1917, § 5813; 1930, § 2393; 1942, § 3374-114; Laws, 1950, ch. 491, § 114; Laws, 1985, ch. 487; Laws, 1989, ch. 526, § 1; Laws, 1990, ch. 418, § 1; Laws, 1992, ch. 430 § 1; Laws, 1998, ch. 315, § 1; Laws, 2000, ch. 363, § 2; Laws, 2000, ch. 515, § 2; Laws, 2006, ch. 419, § 1; Laws, 2007, ch. 546, § 2; Laws, 2009, ch. 467, § 11, eff from and after July 1, 2009.

View

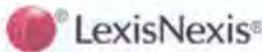
← 1 of 1 →



[Return to Results](#) | [Book Browse](#)

Miss. Code Ann. § 21-17-5 (Copy w/ Cite)

Pages: 2



[About LexisNexis](#) | [Privacy Policy](#) | [Terms & Conditions](#) | [Contact Us](#)
Copyright © 2013 LexisNexis, a division of Reed Elsevier Inc. All rights reserved.

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 308-2013

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the revised overtime policy is hereby approved.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary.

Motion was made by **Councilman Colledge**, seconded by **Councilman Anderson** and the following vote was recorded:

AYES: Mary Martin
Casey Vaughan
Rusty Anderson
Adam Colledge

NAYS: None

ABSENT: Johnny Jones
Hurley Ray Guillotte

MAYOR

ATTEST:

CITY CLERK

Passed and Adopted by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of December 17, 2013.

SECTION 6. Overtime/Compensatory Time.

An employee who is not exempt from the provisions of the Fair Labor Standards Act (FLSA) who works unscheduled hours and/or works hours beyond the threshold of FLSA for their job will be paid one and one-half times their regular rate of pay for each overtime hour worked. Paid or unpaid time off for holidays, annual leave or sick leave will not be counted as hours worked for the purposes of overtime calculations. (Revised 02/05/13)

During special details such as those occurring during holidays, the City Manager may authorize payment of overtime outside the guidelines of paragraph one (1) of this policy.

All overtime must be pre-approved by the department head and documented; working unauthorized overtime may be grounds for discharge even though compensation for those hours will be paid in accordance with FLSA.

The City compensates overtime for all employees as follows:

- a) Non-Exempt – Non Public Safety: Overtime is compensated at a rate of one and a half (1.5) times the normal rate of pay for hours worked in excess of forty (40) hours per week.
- b) ~~Non-Exempt Fire Department: Shift personnel (Schedule 2808) shall refer to Article 24, Hours worked—Overtime of labor agreement between the City of Gautier and Local 3290. Pending Negotiation~~
- c) Police Officers. The scheduled hours worked for uniformed sworn personnel with powers of arrest, shall be 84 hours per 14-day work cycle. Overtime shall be paid at a rate of time and a half (1.5) the normal rate of pay for those police officers working more than 84 hours in a 14-day work cycle. (Change reflects existing practice)
- d) Detectives and Non-Uniformed. The scheduled hours worked for non-uniformed sworn personnel with powers of arrest, shall be 40 hours per 7-day work cycle. Overtime shall be paid at a rate of one and a half (1.5) times the normal rate of pay for those Detectives working more than 40 hours in a 7 day work cycle. (Change reflects existing practice)
- e) Dispatchers. The scheduled hours worked for uniformed dispatchers, covered by this agreement, vary from 36 hours to 48 hours per seven (7) day work cycle. Overtime shall be paid at a rate of one and a half (1.5) times the normal rate of pay for those Dispatchers actually working more than 40 hours in a seven (7) day work cycle.
- f) Office and other. The scheduled hours worked for office and other employees, including the Animal Control Officer, shall be 40 hours per seven (7) day work cycle. Overtime shall be paid at a rate of one and a half (1.5) times the normal rate of pay to office and other employees actually working more than 40 hours in a seven (7) day work cycle.

Compensatory time: The City of Gautier does not use Compensatory time.

Exempt employees are expected to work the hours required to accomplish their jobs, which may be

in excess of forty (40) hours per week. Exempt employees may take short periods of leave (four (4) hours or less without charge to their accruals, if approved by the Department Director and City Manager. Leave exceeding four (4) hours or more must be charged against the appropriate leave accrual.

Exempt employees are typically paid a salary that is not subject to deductions for hours not worked. Deductions from an exempt employee's salary, however, will be made for absences from work exceeding four (4) or more hours for personal reasons other than sickness or disability if the employee has no accrued annual or sick leave. Deductions from an Exempt employee's salary will also be made for a disciplinary suspension of one or more full days for workplace misconduct.

There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

ORDER NUMBER 309-2013

IT IS HEREBY ORDERED by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the Docket of Claims is hereby approved, provided that all entries thereon are true, correct, properly entered and not fraudulent.

IT IS FURTHER ORDERED that the City Manager or City Clerk is authorized to execute any and all documents necessary.

Motion was made by **Councilman Anderson**, seconded by **Councilman Colledge** and the following vote was recorded:

AYES: Mary Martin
Casey Vaughan
Rusty Anderson
Adam Colledge

NAYS: None

ABSENT: Johnny Jones
Hurley Ray Guillotte

RECUSED: Gordon Gollott

MAYOR

ATTEST:

CITY CLERK

Passed and Adopted by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of December 17, 2013.

Docket of Claims
Release date from 12/17/2013 thru 12/17/2013

Fund	Name of Claimant	Trans #	Release Date	Claim Date	Claim Number	Check Number	Claim Amount	Approved/Disapproved
001	PASCAGOULA UTILITIES	140461	12/17/2013	11/27/2013			83.30	
	Account Number	Description		Invoice #	Date	P.O.	Amount	
	001-161-630	CENTRAL FIRE STN		1516500	11/25/2013		29.16	
	001-161-630	SOUTH FIRE STN		1516679	11/25/2013		54.14	
001	GLOBALSTAR	140462	12/17/2013	12/02/2013			52.90	
	Account Number	Description		Invoice #	Date	P.O.	Amount	
	001-092-605	MONTHLY SERVICE		5208869	11/16/2013		52.90	
001	MALLETTE BROTHERS CONSTRUCTION, INC	140463	12/17/2013	12/02/2013			421.37	
	Account Number	Description		Invoice #	Date	P.O.	Amount	
	001-201-576	2.00 TN RAP FOB		17216	11/27/2013		68.00	
	001-201-576	1.01 TN FILL CLASS FOB		17216	11/27/2013		12.12	
	001-201-576	8.85 TN LIMESTONE FOB		17216	11/27/2013		265.50	
	001-201-576	1.01 TN ASPHALT FOB		17216	11/27/2013		75.75	
001	STEINER SAW & MOWER	140464	12/17/2013	12/02/2013			335.00	
	Account Number	Description		Invoice #	Date	P.O.	Amount	
	001-170-639	MUFFLER		870901	11/04/2013		195.00	
	001-170-639	SPOOLS(8)		870921	11/19/2013		80.00	
	001-170-639	CS 2 CYCLE OIL		870926	11/25/2013		60.00	
001	BELL AUTO PARTS, INC.	140467	12/17/2013	12/02/2013			335.25	
	Account Number	Description		Invoice #	Date	P.O.	Amount	
	001-170-639	SWITCH W/KEYS		40045	11/12/2013		99.75	
	001-100-570	BRAKE PAD(2)		D054013	11/19/2013		55.50	
	001-161-638	ANTIFREEZ(4) & ROTELLA(2)		D054014	11/19/2013		96.00	
	001-161-638	ROTELLA (4)		D054015	11/19/2013		84.00	
001	LOWE'S HOME CENTER'S, INC.	140471	12/17/2013	12/03/2013			1,155.12	
	Account Number	Description		Invoice #	Date	P.O.	Amount	
	001-170-559	CREDIT RTN:8FT LIGHT BULB		917340	10/28/2013		-13.28	
	001-205-559	LIGHTED EXIT SIGN		902050	10/28/2013		9.50	
	001-170-559	8FT LIGHT BULB		913313	10/28/2013		13.28	
	001-201-576	50LB PERMNT ASPHALT(3)		902035	10/28/2013		39.84	
	001-170-559	8FT LIGHT BULB		913297	10/28/2013		13.28	
	001-201-559	94LB CEMENT		902304	10/29/2013		9.26	
	001-170-559	24PK LIGHT BULBS		913513	10/29/2013		9.48	
	001-170-559	SAFETY GLASSES,NOZZLE,HOSE		902570	10/31/2013		40.78	
	001-205-559	INSECT SPRAY		913330	11/01/2013		12.33	
	001-201-576	CULVERT REPAIR:SOUND VIEW		902806	11/07/2013		256.35	
	001-201-576	50LB PERMNT ASPHALT(5)		923350	11/08/2013		66.40	
	001-205-559	BATTERY:CLOCK		903918	11/08/2013		4.15	
	001-201-559	CAULK GUN,ADHESIVE(2)		912893	11/12/2013		15.59	
	001-161-635	SUPPLIES:TOILET REPAIR		915144	11/12/2013		18.46	
	001-201-559	PLYWOOD,STEEL REBAR(15)		903998	11/12/2013		104.17	
	001-205-559	ELECTRICAL SUPPLIES		902908	11/13/2013		22.06	
	001-201-576	SUPPLIES:SOUNDVIEW CULVERT		901625	11/13/2013		399.60	
	001-201-576	SUPPLIES:SOUNDVIEW CULVERT		902077	11/14/2013		79.42	
	001-205-559	DECK SCREWS		901715	11/18/2013		8.05	