MAYOR AND COUNCIL

MEETING NO. 03-22
Monday, January 31, 2022 – 7:00 PM

WORKSESSION AGENDA

Agenda item times are estimates only. Items may be considered at times other than those indicated.

Any person who requires assistance in order to attend a city meeting should call the ADA Coordinator at 240-314-8108.

Rockville City Hall is closed due to slowing down the spread of the coronavirus COVID-19 and continue practicing safe social distancing.

Viewing Mayor and Council Meetings
To support social distancing, the Mayor and Council are conducting meetings virtually. The virtual meetings can be viewed on Rockville 11, channel 11 on county cable, livestreamed at www.rockvillemd.gov/rockville11, and available a day after each meeting at www.rockvillemd.gov/videoondemand.

Participating in Community Forum & Public Hearings:

If you wish to submit comments in writing for Community Forum or Public Hearings:

• Please email the comments to mayorandcouncil@rockvillemd.gov by no later than 10:00 a.m. on the date of the meeting.
• All comments will be acknowledged by the Mayor and Council at the meeting and added to the agenda for public viewing on the website.

If you wish to participate virtually in Community Forum or Public Hearings during the live Mayor and Council meeting:

1. Send your Name, Phone number, the Community Forum or Public Hearing Topic and Expected Method of Joining the Meeting (computer or phone) to mayorandcouncil@rockvillemd.gov no later than 10:00 am on the day of the meeting.
2. On the day of the meeting, you will receive a confirmation email with further details, and two Webex invitations: 1) Optional Webex Orientation Question and Answer Session and 2) Mayor & Council Meeting Invitation.
3. Plan to join the meeting no later than 6:40 p.m. (approximately 20 minutes before the actual meeting start time).
4. Read for meeting tips and instructions on joining a Webex meeting (either by computer or phone).
5. If joining by computer, Conduct a WebEx test: https://www.webex.com/test-meeting.html prior to signing up to join the meeting to ensure your equipment will work as expected.
6. Participate (by phone or computer) in the optional Webex Orientation Question and Answer Session at 4 p.m. the day of the meeting, for an overview of the Webex tool, or to ask general process questions.

Participating in Mayor and Council Drop-In

The next scheduled Drop-In session will be heard, by phone, on Monday, February 7 from 5:30-6:30 pm with Mayor Newton and Councilmember Ashton. Please sign up by 10 a.m. on the meeting day using the form at: https://www.rockvillemd.gov/formcenter/city-clerk-11/sign-up-for-dropin-meetings-227
7:00 PM  1. Convene

2. Pledge of Allegiance

7:05 PM  3. Work Session - Topic 1

   A. Discussion on Paid Parental Leave Policy

8:05 PM  4. Work Session - Topic 2

   A. Discussion on Work-Related Injury Paid Leave Benefits

9:05 PM  5. Work Session - Topic 3

   A. Discussion on Reduction in Force and Furlough Policy

9:50 PM  6. Work Session - Topic 4

   A. Discussion on Proposed Premium Pay Options

10:35 PM  7. Adjournment

The Mayor and Council Rules and Procedures and Operating Guidelines establish procedures and practices for Mayor and Council meetings, including public hearing procedures. They are available at: http://www.rockvillemd.gov/mcguidelines.
Subject
Discussion on Paid Parental Leave Policy

Recommendation
The City is Considering Implementing a Paid Parental Leave Policy to Provide Leave to Eligible Employees Following the Birth of an Employee’s Child or the Placement of a Child with an Employee in Connection with Adoption or Foster Care. Paid Leave Would Run Concurrently with Leave Under the Family and Medical Leave Act (FMLA), as Applicable. Per City Code, unless the Mayor and Council instruct staff to modify the proposed policy, the policy will go into effect 55 days from the distribution of the revised PPM to the Mayor and Council.

Discussion
The City’s has long had in place processes for employees who wish or need to take time off due to the birth of a child or placement for adoption or foster care, which includes the following:

- Employees follow the requirements of the FMLA, and eligible employees may take a total of up to 12 weeks per year as protected leave under the FMLA.

- Medical leave following the birth of an employee’s child is typically six (6) or eight (8) weeks, depending on the type of delivery. During the medical time off, the mother uses sick leave and compensatory/annual leave, as needed, and may be eligible to receive leave from the Short-Term Disability Leave Bank (see below). A spouse may use family sick leave but is not eligible for leave from the Short-Term Disability Leave Bank.

- Eligible employees may receive Short-Term Disability Leave Bank withdrawals after meeting a 15-calendar-day elimination period and exhausting all of their own leave. Withdrawals may continue for the medically-certified period, for up to 90 calendar days from the start of the absence, (at which point the employee would need to apply for long-term disability benefits if medically unable to return to work).

- After the medical leave, additional time off (for bonding/family leave) may be taken, using the employee’s compensatory/annual leave, followed by unpaid leave if needed.
Highlights of a proposed new Paid Parental Leave Policy include the following:

➢ Regular employees who have been employed by the City for at least 12 months and have worked at least 1,250 hours during the 12 consecutive months immediately preceding the start of the leave would be eligible for paid parental leave.

➢ Paid parental leave of up to eight (8) workweeks may be granted for the following reasons: the birth of a child; the placement of a child with the employee for adoption or foster care; an employee’s medical recovery following childbirth; or an employee’s need to care for a spouse during the medical recovery following childbirth.

➢ Paid parental leave must be used within twelve (12) months following the birth, adoption, or foster care placement of the child.

➢ Paid parental leave runs concurrently with, and is not in addition to, leave taken under the FMLA.

➢ Employees may use paid parental leave before other accrued leave, such as annual leave or sick leave.

➢ Paid parental leave that is not used by the employee prior to the end of the 12-month period to which it relates, shall be forfeited.

➢ Paid parental leave would be paid at the employee’s regular pay rate based on their regularly-scheduled workweek; however, it shall not include overtime.

➢ The City would maintain all benefits for employees during the paid parental leave period just as if the employee were taking other paid leave, such as annual leave or sick leave.

➢ Upon return from paid parental leave, employees would be restored to their original or an equivalent position.

The Human Resources Department surveyed peer jurisdictions to gather information regarding whether they have a designated parental leave policy and, if so, the specifics of their leave policies. Information gathered is summarized in the attached chart. Although most jurisdictions have not implemented a designated parental leave policy, a couple of jurisdictions indicated that they are exploring this benefit option.

The City will be completing a list of benefits offered to City employees, to do an analysis of what is currently offered.
Mayor and Council History
On April 8, 2021, City staff met with Councilmembers Feinberg and Ashton to discuss the sample Parental Leave Policy. The councilmembers asked clarifying questions and requested that staff provide additional information.

Fiscal Impact
Based on the draft Parental Leave Policy, the estimated annual value of a four, six, or eight week paid parental leave benefit would be approximately $160,000, $241,000, or $321,000, respectively. These dollar values assume an estimated ten (10) covered events per year and includes the value of the parental leave paid to the employees, the value of backfill coverage during the leave, and the future value of the leave preserved as a result of the employees not having to use their accumulated leave.

Next Steps
With Mayor and Council direction, staff will provide additional information for discussion on this benefit.

Attachments
Attachment 3.A.a: Parental Leave Policy SAMPLE-DRAFT 51721 (PDF)
Attachment 3.A.b: Comparison of Local Jurisdictions (PDF)
Attachment 3.A.c: Paid Parental Leave Analysis Final (PDF)

Rob DiSpirito, City Manager 4/19/2021
SAMPLE Parental Leave Policy

The City will provide up to eight (8) weeks of paid parental leave to eligible employees following the birth of an employee’s child or the placement of a child with an employee in connection with adoption or foster care, or placement of a child with the employee for whom the employee is acting “in loco parentis” as defined in the Family and Medical Leave Act (FMLA) policy.

This policy will run concurrently with FMLA leave, as applicable.

Effective Date

This policy is effective [DATE]. Paid parental leave is available to eligible employees only in connection with the birth or placement of a child that occurs on or after [DATE] and paid parental leave may not be used for any period of time prior to [DATE].

Eligibility

Regular employees who have been employed by the City for at least 12 months and have worked at least 1,250 hours during the 12 consecutive months immediately preceding the start of the leave are eligible for paid parental leave.

Non-benefit eligible employees are not covered by this policy but may be eligible for unpaid leave under the FMLA, if the employee otherwise meets those requirements. Please refer to the FMLA policy for further guidance.

If an employee no longer meets the eligibility requirements for paid parental leave because he or she moved into a non-benefitted status, paid parental leave will no longer be available for use.

Any questions about eligibility should be directed to the Human Resources department.

Conditions

Paid parental leave may be granted for the following reasons:

- The birth of a child/children;
- The placement of a child/children with the employee for adoption or foster care;
- An employee’s inability to work because of a post-pregnancy disability or incapacity related to childbirth; or
- To care for a spouse who experiences a post-pregnancy disability or period of incapacity related to childbirth.

Amount of Leave

The City will provide up to eight (8) workweeks of paid parental leave to an eligible employee upon the birth of a child/children or the placement of a child with an employee in connection with adoption or foster care. The child being adopted or placed for foster care must be under the age of 18 (or age 18 or older and incapable of self-care because of a mental or physical disability). An employee shall not receive more than eight (8) workweeks of paid parental leave in any 12-month period, regardless of whether more than one birth, adoption, or foster care placement event occurs within that 12-month time frame.

If both parents work for the City and meet the eligibility requirements, they are limited to a maximum combined total of eight (8) weeks of paid parental leave.

Paid parental leave must be used within twelve (12) months following the birth, adoption, or foster care placement of a child. To the extent that an employee qualifies for leave under the FMLA for the birth, adoption, or foster care placement of a child, any paid parental leave taken under this policy shall run concurrently with, and will not be in addition to, leave taken under the FMLA. An employee who is not eligible for FMLA leave (due to having exhausted that leave) will be afforded the same level of job protection for the period of time that the employee is on paid parental leave, as if the employee were on FMLA-qualifying leave.
Use of paid parental leave shall not require use of any accrued leave, such as sick leave or annual leave. Employees may use paid parental leave before other accrued leave. Paid parental leave must be used before an employee enters into an unpaid leave status. Any paid parental leave not used by the employee before the end of the 12-month period to which it relates shall be forfeited and may not be accumulated for any subsequent use. Paid parental leave benefits cease upon employment separation.

Paid parental leave will be paid at the employee’s regular pay rate based on their regularly scheduled workweek; however, it shall not include overtime.

Notice

Employees planning to use paid parental leave shall provide the Human Resources Department and their supervisor with at least thirty (30) calendar days’ advance notice of the birth, adoption, or foster care placement of a child. When the birth, adoption, or foster care placement is not foreseeable, employees shall provide as much notice as is practicable. The City will process requests for paid parental leave using the same procedures established for employees to request FMLA leave.

Certification

The employee must submit the necessary/required forms to the Human Resources Department to substantiate the request.

Use of Leave

Paid parental leave may be used on a continuous, intermittent, or reduced schedule basis subject to approval by the Human Resources Director or designee. Leave may be taken in one-quarter hour increments. Employees may not be paid more leave per day then they are normally scheduled to work.

Effect on Employment and Benefits

Time spent on paid parental leave will be considered “time worked” for purposes of calculating eligibility requirements for the FMLA. However, paid parental leave will not be considered “time worked” for purposes of calculating overtime.

The City will maintain all benefits for employees during the paid parental leave period just as if the employee were taking any other paid leave, such as paid annual leave or paid sick leave. If an employee goes into unpaid status, the employee needs to contact the Human Resources Department to arrange for payment of benefits.

Return to Work

Upon return from paid parental leave, employees will be restored to their original or an equivalent position with equivalent pay, benefits, and other employment terms.

Discrimination and Retaliation Prohibited

The City prohibits and will not tolerate discrimination or retaliation against any employee or applicant because of that person’s pregnancy or use of parental leave. Specifically, no one will be denied employment, reemployment, promotion, or any other benefit of employment, or be subjected to any adverse employment action based on that person’s pregnancy or use of parental leave. In addition, no one will be disciplined, intimidated, or otherwise retaliated against because that person exercised rights under this policy or applicable law.
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</thead>
<tbody>
<tr>
<td>City of Bowie</td>
<td>No</td>
<td>N/A</td>
<td>Yes</td>
<td>See FMLA</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>No benefits beyond FMLA-mandated benefits, although considering implementing a maternity leave policy in the future. 4/2021, they sent us their STD insurance policy (10-day waiting period; then 2/3 pay).</td>
</tr>
<tr>
<td>City of College Park</td>
<td>No</td>
<td>N/A</td>
<td>Yes</td>
<td>See FMLA</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>Employee uses their own leave for continuity of pay while FMLA leave.</td>
</tr>
<tr>
<td>City of Frederick</td>
<td>No</td>
<td>N/A</td>
<td>Yes</td>
<td>See FMLA</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>Employee takes FMLA leave and uses their available leave accruals so the time off is paid.</td>
</tr>
<tr>
<td>City of Gaithersburg</td>
<td>No</td>
<td>N/A</td>
<td>Yes</td>
<td>See FMLA</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>If an employee uses it, it follows the same process that normal Safe &amp; Sick Leave and FMLA would follow. Employee are required to use all available accrued leave and then any additional leave beyond that (if necessary) is unpaid leave.</td>
</tr>
<tr>
<td>City of Hagerstown</td>
<td>No</td>
<td>N/A</td>
<td>Yes</td>
<td>See FMLA</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>City of Takoma Park</td>
<td>No</td>
<td>N/A</td>
<td>Yes</td>
<td>See FMLA</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>FMLA used in conjunction with employee's own leave (sick, vacation, personal, or comp time that has been earned).</td>
</tr>
<tr>
<td>District of Columbia</td>
<td>Yes</td>
<td>Up to 8 workweeks</td>
<td>No</td>
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<tr>
<td>Fairfax County</td>
<td>Yes</td>
<td>6 weeks within a 12-month period as defined by the FMLA</td>
<td>No</td>
<td>Employee's own serious health condition; birth of employee's child and care for the newborn; placement of a child with the employee for adoption or foster care; care for employee's spouse, child, parent, or parent-in-law with a SHC, qualifying exigency for ee's family member being on covered active duty...; to care for an injured service member ...</td>
<td>Merit employees in their initial probationary period are eligible on the first day of the month following date of hire</td>
<td>Yes, to the extent the employee is eligible for FML</td>
<td>Any unused parental leave will expire at the end of the 12-month period; hours are not accrued or transferable and will not be carried over from year to year.</td>
<td>Appropriately documented could include, but is not limited to, a birth certificate or a document from an adoption or foster care agency regarding the placement.</td>
<td></td>
</tr>
<tr>
<td>Federal Government</td>
<td>Yes</td>
<td>12 weeks (full pay)</td>
<td>No</td>
<td>Birth of an employee's son or daughter or the placement of a son or daughter with an employee for adoption or foster care</td>
<td>12 months of covered service performed at any time in the past</td>
<td>Yes</td>
<td>Paid parental leave expires 12 months after date of birth or placement and is not available for future use.</td>
<td>[\text{FMLA and Sick Leave Bank for employee's own illness which includes birth of a child (for the mother); employee must exhaust all of their own leave before using bank hours.}]</td>
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</tr>
<tr>
<td>Howard County</td>
<td>No</td>
<td>N/A</td>
<td>Yes</td>
<td>Birth, adoption, and foster care (under FMLA)</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MCPS</td>
<td>No</td>
<td>N/A</td>
<td>Yes</td>
<td>Birth/adoption (assume also covers foster care placement under FMLA)</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>M-NCPPC</td>
<td>No</td>
<td>N/A</td>
<td>Yes</td>
<td>See FMLA</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td></td>
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</tr>
<tr>
<td>Montgomery College</td>
<td>No</td>
<td>N/A</td>
<td>Yes</td>
<td>See FMLA</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
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<tr>
<td>Montgomery County</td>
<td>No</td>
<td>N/A</td>
<td>Yes</td>
<td>Birth, adoption, or foster placement of a child</td>
<td>Employed by the County in a merit system position for at least 6 consecutive months</td>
<td>N/A, but all hours used as parental leave must count against the employee's FMLA entitlement of 12 weeks in 12 months, unless the employee is not eligible for FMLA leave.</td>
<td>If employee does not use the entire amount of parental leave within the 12-month period following the birth or placement of the child, the balance will remain available to the employee and may be used for a subsequent birth, adoption, or foster placement within the original 24-month period.</td>
<td>Employees use their own leave but when they exhaust it, they can receive donated leave. Runs concurrent with FMLA leave.</td>
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<tr>
<td>Prince George's County</td>
<td>Yes</td>
<td>Up to 10 days (full pay)</td>
<td>No. 15 weeks of FMLA</td>
<td>Birth, adoption, or fostering</td>
<td>Yes</td>
<td>No, 15 weeks of FMLA</td>
<td>Leave must be used within 6 months of the birth of the employee's child or the placement for adoption.</td>
<td>Employee is required to use annual and personal leave if it available. Once exhausted, may receive 60 days of paid parental leave. If employee has 60+ days of annual/personal leave combined, he/she is not entitled to additional parental leave. Employee may use up to 30 days of sick leave prior to using up to 60 days of parental leave. The total parental leave absence may not exceed 60 days of combined leave (parental, annual, personal, and any other available leave the employee uses.</td>
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<tr>
<td>State of Maryland</td>
<td>Yes</td>
<td>60 days (up to 480 hours) - but not until after employee exhausts their own annual and personal leave</td>
<td>No</td>
<td>Birth of a child; adoption of a child under 6 years of age</td>
<td>A parental leave absence will run concurrently with the employee's FMLA leave.</td>
<td>Leave must be used within 6 months of the birth of the employee's child or the placement for adoption.</td>
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Estimated Value of Proposed Draft Paid Parental Leave Benefit

Based on my office’s review of the draft paid parental leave policy and the data provided by Human Resources, the estimated annual value of a four, six, or eight-week paid parental leave benefit would approximate $160,000, $241,000, or $321,000. This dollar value assumes an estimated ten covered events per year and covers the value of the parental leave paid to the employees, the value of backfill coverage during the leave, and the future value of the leave saved as a result of the employees not having to use their accumulated leave.

Alternative Implementation Recommendation with Improved Outcomes

Based on the data reviewed and subsequent analysis, a viable alternative with improved outcomes, is a revision of the current family sick leave policy rather than the addition of a new paid parental leave policy. The current family sick leave policy caps the amount of sick leave that an employee can use to care for a family member. This existing policy could be revised to accomplish the same goal and deliver better outcomes as the proposed new paid parental leave policy, ensuring employees are able to take paid time off to care for new additions to their families or to care for close relatives. This revision would allow employees to apply more of their accumulated sick leave rather than the city carrying the cost of the leave forward.

On average, even employees who have worked for the city for five years or less have at least eight weeks of leave available to them, there will be times when an employee who needs this type of benefit will not have sufficient leave available. In those cases, the city could offer to cover the gap between the leave the employee has accumulated and the four to eight weeks targeted by the proposed new paid parental leave policy. Based on the events from the past several years, this cost would be significantly less than the estimated $160,000 - $321,000 value of the proposed new paid parental leave benefit.

Analysis of Parental Leave Events and Leave Balances Per Employee

In addition to calculating the estimated value of the proposed paid parental leave benefit, my office reviewed the data provided by Human Resources on parental leave events for the last three fiscal years and current employee leave balances.

Parental Leave Events: FY18 through FY20

The table below summaries the number, length, and paid/unpaid status of parental leave events for fiscal years 2018 through 2020, along with the value of the leave taken by the employees without pay up to a cap of 300 total hours per event.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th># of Events</th>
<th>Total Leave Hours</th>
<th>Hours Paid</th>
<th>Hours Unpaid</th>
<th>Capped* Value of Unpaid Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY18</td>
<td>6</td>
<td>2,154.00</td>
<td>1,864.50</td>
<td>289.50</td>
<td>$4,267</td>
</tr>
<tr>
<td>FY19</td>
<td>8</td>
<td>1,815.25</td>
<td>1,815.25</td>
<td>-</td>
<td>$-</td>
</tr>
<tr>
<td>FY20</td>
<td>15</td>
<td>4,576.00</td>
<td>4,299.00</td>
<td>277.00</td>
<td>$3,440</td>
</tr>
</tbody>
</table>

*Value of the unpaid hours up to 300 per event
If the current leave policies included a mechanism to supplement available leave for parental leave events, these employees could have been fully paid at a direct cost of less than $5,000 per year in FY18 and in FY20, plus cost of coverage where needed. In FY19, there would have been no direct cost, just cost of coverage where needed, as no leave without pay hours were taken for parental leave events. The data above shows that employees are already being paid when they are taking time off for parental leave events.

**Leave Balances Per Employee**

Under the City’s current leave policy there is no cap on the amount of sick leave an employee can carry over from year to year, and the city’s annual leave benefits are generous. As a result, total employee leave balances are high reflecting an inefficient system of leave. If additional paid leave is introduced into the system, it would exacerbate the current inefficiencies that exist. The following chart shows the average total leave balances per employee by length of service.

As seen in the chart above, even among employees who have worked for the city for five years or less, the average total leave balance is 352 hours—more than the 150 to 300 hours that would be covered by the proposed paid parental leave policy.
Subject
Discussion on Work-Related Injury Paid Leave Benefits

Recommendation
Staff recommends the Mayor and Council discuss and provide direction to possibly reduce the length of time an employee is eligible to receive the City's work-related injury paid leave benefit.

Discussion
This item is being brought to the Mayor and Council for a discussion on an internal benefit provided to regular City employees who become injured following an injury that arose out of the performance of their job duties.

This internal benefit, which permits employees to receive their full rate of pay for up to two years from the date of injury, is contained in the City’s Personnel Policies and Procedures Manual (PPM) under Policy on Leave, Job Injury Leave, as well as the current AFSCME agreement in Section 9.2, On-The-Job-Injury Leave. This policy provides an employee with a benefit above what is covered by any workers’ compensation insurance policy and any changes to this program will have no bearing on any contract award to an insurer to provide workers’ compensation insurance.

The current policy provides that in the event an employee sustains a compensable work-related injury or illness rendering them totally disabled, the employee will, after a three-day waiting period, receive their regular base rate of pay (not to exceed forty hours per week), less any workers’ compensation payments during the period of temporary total disability. These payments continue through the earlier of maximum recovery or two years from the date of injury/illness.

State law in Maryland requires that employees be paid total temporary disability equal to 66 2/3 percent of the employee's gross average weekly wage at the time of the accident up to statutorily established caps. Some employers, including the City of Rockville and others predominately in the public sector, choose to offer paid leave benefits above the minimum amount required by law.
To understand the City’s benefit as compared to our peers, we surveyed other Maryland counties and municipalities and the benefits they provide for absences related to injuries sustained at work and their replies are below.

- **City of Gaithersburg**: Full pay for up to 90 days.

- **Montgomery County**: Full pay for up to 18 months if using network of physicians or up to 12 months if using non-network providers.

- **Frederick County**: Full pay for up to 90 days.

- **City of Annapolis**: No additional benefit for non-police/fire employees beyond statutory limits. For police/fire employees, they receive full pay up to maximum medical improvement or employment action taken.

- **City of Bowie**: No additional benefit beyond statutory limits.

- **City of Greenbelt**: Full pay for up to one year.

- **City of Hagerstown**: No additional benefit beyond statutory limits.

- **Cecil County**: No additional lost time benefit beyond statutory limits. Cecil County does provide up to 100 hours of leave to attend appointments related to the injury.

As you can see from the responses received, the City’s policy to allow employees to receive up to two years of full pay is generous as compared to those we have benchmarked against.

Through prior discussions with members of the Mayor and Council regarding the benefits contained in the City’s PPM, we wanted to provide you with information on how reducing the benefit from a maximum of two years of full pay to one year of full pay may impact our employees based upon recent claim data. In the last 5-year period, from 2017 through 2021, there was only one employee whose absence exceeded one year in length due to a work-related injury.

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Cases with &gt; 200 days absence</th>
<th>Cases with &gt; 300 days absence</th>
<th>Cases with &gt; 400 days absence</th>
<th>Cases with &gt; 500 days absence</th>
<th>Cases with &gt; 600 days absence</th>
</tr>
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</tbody>
</table>
The data from the table above shows that it is rare for an employee to be out of work for more than a year due to a work-related injury with only one such case in the last 5-year period.

Even after an employee exhausts the work-related injury leave benefits afforded by the City, they may still qualify for paid benefits from the State of Maryland Workers’ Compensation Commission in the form of disability benefits. Additionally, in the event workers’ compensation benefits become exhausted, long term disability insurance, provided for all regular employees, may pay up to 60% of the employee’s salary, to a maximum of $10,000 per month, for approved claims.

Studies have shown that an injured employee who returns to work in a safe and timely manner allows them to have a quicker recovery, reiterates self-worth and provides for social connections, helps reduce risk of skillset loss, and boosts morale among the employee and their coworkers. Additionally, the City benefits by helping to control direct and indirect costs of absenteeism, reduces lost productivity, and reduces the likelihood of turnover.

Staff requests direction from the Mayor and Council regarding whether there is a desire to modify the work-related injury paid leave benefits.

**Mayor and Council History**
During their June 21, 2021 meeting, the Mayor and Council asked staff to bring this item back for a discussion on the City’s work-related injury paid leave benefits.

**Next Steps**
If it is the desire of the Mayor and Council to modify the work-related injury paid leave benefits, staff will draft the necessary proposed policy changes for consideration of adoption.

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</thead>
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</table>
Subject
Discussion on Reduction in Force and Furlough Policy

Recommendation
Staff recommends that the Mayor and Council discuss the City Manager’s draft of potential revisions to the City’s current Reduction in Force (RIF) and Furlough Policy amendments to the Personnel Policy and Procedures Manual (PPM). Per City Code, unless the Mayor and Council instruct staff to modify the proposed amendments, the amended PPM will go into effect 55 days from the distribution of the revised PPM to the Mayor and Council.

Discussion
This existing policy is being revised and presented for discussion in the event the City finds it necessary to implement a Reduction in Force (RIF) and/or Furlough of employees. These measures could be necessary for various reasons, including budgetary constraints, lack of work, or other business reasons. Recognizing that a RIF or Furlough may be necessary at some point in the future, it is important that City staff and the Mayor and Council review our current RIF policy to determine if there are sections in this existing RIF policy that should be revised.

Staff believes it is important to include the option of implementing furloughs when discussing the RIF policy. A furlough is a temporary leave from work, without pay, due to budgetary constraints, and is a short-term measure that may be implemented instead of a RIF or in conjunction with a RIF, to address the fiscal needs of the City. A RIF is a permanent elimination of services and or positions that are no longer required for the delivery of City services.

When a RIF has been approved by the Mayor and Council and the affected City services and job classification(s) have been determined, the City proposes that the following criteria be implemented to determine the employees who will be laid off from the City:

- Position(s) that no longer support the City’s guiding principles
- Reduction of temporary employees
- Layoff of probationary employees
- Layoff of employees with the least seniority
Staff proposes that we maintain the following approach regarding seniority as outlined in the current RIF (Layoff) policy, “an employee’s length of service will be a factor in determining whether or not the employee shall be laid off, but it is not necessarily the determining factor.” Additionally, all RIF proposals will have to be reviewed and approved by the City Manager and the Director of Human Resources, prior to implementation. This review will provide an opportunity to assess RIF proposals for any adverse impact on any specific employee population or protected class.

The purpose of the attached revised draft Reduction in Force (RIF) and Furlough Policy is to provide more details on how the City should proceed in the event there is a need for a RIF and/or furlough to be implemented by the City.

**Mayor and Council History**

This is the first time that the Mayor and Council have discussed the City’s existing Reduction in Force and Furlough Policy and any proposed revisions to it.

**Attachments**

Attachment 5.A.a: Reduction in Force and Furlough Policy (PDF)

[Signature]

Rob DiSpirito, City Manager 4/19/2021
PPP # 80-18
Procedure on Reduction in Force (RIF) and Furlough

PURPOSE

This procedure implements the RIF and Furlough section described in the Policy on Personnel Changes (PPP# 80-00).

Furlough

A temporary leave from work, without pay, due to the shortage of funds. A furlough is a short-term measure or solution that may be implemented instead of a RIF or in conjunction with a RIF to address the fiscal needs of the City.

Reduction in Force (Layoff)

A permanent elimination of services and/or positions that are no longer deemed necessary for the delivery of City services. Reasons for a RIF include, but are not limited to, shortage of funds, lack of work, the abolishment of a position, or other business reasons unrelated to the employee’s job performance. These reasons for a RIF apply regardless of whether the RIF is made on a citywide, departmental, divisional or sectional basis.

In applying a RIF to union-represented positions, the provisions of the agreements between the City and AFSCME Local 1453 should be followed.

The duties performed by any laid off employee may be reassigned to other employees in an appropriate job classification.

Reduction in Force Criteria

When a RIF has been approved by the Mayor and Council and the affected City services and job classification or job classifications have been determined, non-AFSCME employees will be selected for layoff based upon the following criteria:

- Position(s) no longer support the City’s guiding principles
- Reduction of temporary staffing
- Layoff of Probationary employees
- Layoff of Employees with the least seniority

An employee’s length of service will be a factor in determining whether or not the employee shall be laid off, but it is not necessarily the sole determining factor.

All RIF proposals shall be reviewed and approved by the City Manager and Director of Human Resources, prior to implementation of any RIF plans.

Notification

All employees who are to be laid off will be given a minimum written sixty (60) calendar days’ notice clearly stating the effective date and the reason for the RIF. The Human Resources Department will also furnish employees with information concerning their benefits and transition services. Transition services may include assistance on how to apply for unemployment compensation, assistance updating resumes, and interview skills coaching.

Re-employment List

Within twenty-four (24) months of the effective date of the RIF, employees laid off from the City will be given priority consideration for vacancies within their job classification and job classifications lower than the job classification they held prior to being laid off from the City.
The City may fill a vacant position in a job classification for which a re-employment list exists by offering the position to a person on the re-employment list.

A laid off employee's name will remain on a re-employment list for twenty-four (24) months from the date of the RIF, but will be removed from the list if the employee:

- Accepts another City position; or
- Refuses a job offer made from a re-employment list for a job at the same job classification; or
- Fails to respond to the Human Resources Department within fifteen (15) calendar days notification of the job offer.

**Employees Who are Rehired After a Reduction in Force**

The following rules apply to employees who:

- Were laid off from a regular job classification; and
- Are rehired into a regular job classification; and
- Are rehired within twenty-four (24) months of being laid off.

**Physical Examination**

For a job which requires a pre-employment physical examination, employees may be required to pass a physical examination prior to being rehired.

**Probation**

Employees who are rehired from a re-employment list into their former classification will not be required to serve a probationary period provided they have successfully completed a probation within the job classification. If appointed to a different job classification, they must serve a probationary period.

**Credit for Prior Service**

When rehired, employees recalled to regular positions within twenty-four (24) months of their layoff will be credited with prior service for the purpose of calculating seniority, longevity, and vacation leave. If employees are rehired within twenty-four (24) months, they also will be credited with prior service in grade for the purpose of determining length of continuous service in one level of a salary grade. Those re-employed after being laid off in excess of twenty-four (24) months shall be considered as new employees.

Terms of retirement benefits and credited service will be as defined in the retirement plan.

**Sick Leave**

When rehired within twenty-four (24) months of their layoff, employees will be credited with any sick leave balance at the time of the RIF.

**Salary**

If employees are rehired in the same pay grade within twenty-four (24) months of being laid off, they will be rehired at the rate of pay they were paid at the time of their layoff. If employees accept a job in a classification that is a lower pay grade than their former job classification, the action will be considered a voluntary demotion and the rules for demotion will determine the salary.

To be considered for a position in a job classification that is a higher pay grade than the job classification the laid off employee held prior to the RIF, they will be eligible to apply when the position is posted open competitive. If the employee is hired into a higher-level job classification, that will be considered a promotion and the rules for promotion will determine salary.
Subject
Discussion on Proposed Premium Pay Options

Recommendation
Staff recommends that the Mayor and Council review the options provided regarding Premium Pay for City employees and provide direction to staff for potential implementation.

Discussion
The premise of paying “Premium” or “Hazard” compensation to public employees who are required, as an integral element of their jobs to report to a workplace, is intended to be in recognition of the additional risk and hardships that they face, as they interact directly with the public, contractors and/or their peer employees. Many of these positions, including those of Police Officer and a variety of public works and recreation and parks jobs, feature heavy exposure to others. These are often referred to as “essential” or “outwardly facing” positions. This category of employee is in contrast to those employees who exclusively telework from their homes, and who are thus not exposed to others as a facet of their jobs.

In recognition of this additional risk, the City of Rockville paid Premium Pay to its essential employees during the first three months of the pandemic in 2020. The method of payment was an additional percentage applied to hour pay rates. Premium Pay was discontinued once the initial spread of the virus began to abate in the summer of 2020 and was not applied again.

With the emergence of the most recent variant of the virus, Omicron, in December, 2021, and the corresponding spike in infection rates, hospitalizations and deaths, the idea of once again addressing employee compensation has arisen. Nearly two years into the pandemic, and two variants of the virus later, it is difficult to determine exactly when COVID-19 may truly decline. Essential City services have not only continued to be provided, but have, in many cases, evolved and diversified. This also means that employee exposure to risk is still high, even in light of the vaccines and boosters. Breakthrough cases of the fully vaccinated are not uncommon. Therefore, it is fitting that some form of financial recognition for eligible employees be devised, and I applaud the Mayor and Council for considering it since this is one way to recognize the sacrifice of employees and would be good for morale.
At the January 10th meeting, staff presented several different options for how Premium Pay could be accomplished. The Mayor and Council concurred with the recommendation to utilize a $1,200 “lump sum” payment, rather than try to define a period of time and adjust wages. The figure of $1,200 was arrived at with an intention of giving approximately $1,000 net compensation to each eligible employee, but to account for some withholding that would be required.

Discussion also centered on which employees should be eligible for such payments, with respect to the amount of time per week that these employees are normally required to report to a City worksite. In providing direction to staff, the Mayor and Council said they were interested in considering the inclusion of different types of employees, and asked staff to examine that possibility and make a recommendation on January 31st.

One option that was mentioned would be to include only those who are considered permanent “full-time” employees. Another option raised was to also include employees who might be considered part-time or temporary, but who report to a City worksite and are exposed to pandemic hazard.

My staff and I have spent some time discussing the various types of employees we have who are required to report to a worksite, and the relative differences in assigned hours. We determined that it is best to approach this from an “hours worked” per week at the workplace basis, rather than trying to define “full-time, part-time and temporary,” as actual hours worked can be measured, there are so many variations with categories, and such labels can be misleading and imprecise. (Specifically excluded from eligibility for any form of Premium Pay are department heads, deputy or assistant directors, and Charter Officials and their deputies).

We recommend that the $1,200 lump sum payment was best suited for those who worked 30 or more hours per week. Further, we believe that $600 should go to eligible employees who work at least 16 hours but less than 30 hours per week. Finally, we considered employees who must report to work at least 5 hours but less than 16 hours per week. For this category of employee, we suggest a payment of $300, which at least provides an acknowledgement of their contribution to public service and the risk associated with them reporting to the worksite.

Employee data has been compiled and is illustrated in the Fiscal Impact section of this staff report. This includes the number of employees in each category and the City department to which they are assigned. It also details the total estimated expense to provide each proposed category of Premium Pay, segmented by City department and budgetary fund (General Fund and the various other funds). With this information, the Mayor and Council has the ability to consider several scenarios with which to potentially provide Premium Pay. Discussion may include whether or not to confer Premium Pay to employees who work less than 30 hours per week at an assigned City workplace.

The differences in expense for any of these scenarios is easily discerned with the data in the tables provided. This data illustrates that the cost to provide Premium Pay to all categories of
employees, per the eligibility criteria described above, would be approximately $484,748. The cost if we do not include employees who work less than 16 hours/week at a City worksite would be approximately $446,964 (a difference of $37,784 which is 117 employees fewer). The cost for only those employees who work 30 or more hours per week at an assigned City workplace would be approximately $392,707 (a difference of $92,041 which is 201 employees fewer). The City does have the capacity, utilizing unspent personnel funds (for the General Fund) and contingency funds (for the other funds), to pay for any of these three scenarios.

**Recommendation:** As City Manager, I do recommend that the Mayor and Council choose to direct staff to implement the most inclusive option, the one that encompasses employees who work at least 5 hours per week or more at their assigned City worksite.

**Mayor and Council History**

The topic of potential Premium Pay for City employees was raised by Mayor Newton during the Mayor and Council meeting of December 20, 2021, wherein the Mayor and Council then directed staff to address, at the January 10, 2022 Mayor and Council meeting, the subject of Premium Pay for employees who have been mandated to report to a City workplace and who work closely with the public and/or other employees, thereby exposing themselves to health hazards during this pandemic. Staff committed to bring options for the potential implementation of Premium Pay to the Mayor and Council at the January 31st meeting.

**Fiscal Impact**

The fiscal impact for Premium Pay for employees that are required to report to their worksite five or more hours per week, inclusive of related benefits, equals $484,748 and covers 505 employees (TABLE 1 and TABLE 2).

**TABLE 1 – Five or more hours per week by FUND**

<table>
<thead>
<tr>
<th>Fund</th>
<th>Position Count</th>
<th>Expense</th>
<th>Total w/ Benefits</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$1,200.00</td>
<td>$600.00</td>
<td>$300.00</td>
</tr>
<tr>
<td>General</td>
<td>223.00</td>
<td>81.60</td>
<td>116.10</td>
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<td>Water</td>
<td>24.85</td>
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<td>Sewer</td>
<td>14.60</td>
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<td>0.00</td>
</tr>
<tr>
<td>Refuse</td>
<td>26.15</td>
<td>0.00</td>
<td>0.00</td>
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<tr>
<td>Parking</td>
<td>4.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>SWM</td>
<td>11.40</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>Speed</td>
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<td>1.50</td>
<td>0.00</td>
</tr>
<tr>
<td>TOTAL</td>
<td>304.00</td>
<td>84.00</td>
<td>117.00</td>
</tr>
</tbody>
</table>
### TABLE 2 – Five or more hours per week by DEPARTMENT

<table>
<thead>
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<th>Fund</th>
<th>Position Count</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>$1,200.00</td>
<td>$600.00</td>
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<tr>
<td></td>
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<td><strong>84.00</strong></td>
<td><strong>117.00</strong></td>
</tr>
</tbody>
</table>

If the employees who are required to report to their worksite 15 hours or less per week are removed from the table, the fiscal impact for premium pay, inclusive of related benefits, is reduced to $446,964 and covers 388 employees (TABLE 3).

### TABLE 3 – More than 15 hours per week by FUND

<table>
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<th>Fund</th>
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<td></td>
<td>Total</td>
<td>$1,200.00</td>
<td>$600.00</td>
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<tr>
<td>General</td>
<td>223.00</td>
<td>81.60</td>
<td>304.60</td>
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<tr>
<td>Water</td>
<td>24.85</td>
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<tr>
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<td>4.00</td>
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<tr>
<td>SWM</td>
<td>11.40</td>
<td>0.00</td>
<td>11.40</td>
</tr>
<tr>
<td>Speed</td>
<td>0.00</td>
<td>1.50</td>
<td>1.50</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>304.00</strong></td>
<td><strong>84.00</strong></td>
<td><strong>388.00</strong></td>
</tr>
</tbody>
</table>

Staff recommends that all Premium Pay expenses be supported by unspent personnel funds for the General Fund and contingency funds for the other funds. We do not recommend the use of ARPA funds.
**Next Steps**

Staff will implement any direction provided by the Mayor and Council.

Rob DiSpirito, City Manager 1/26/2022