GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

ADMINISTRATIVE/BUDGET COMMITTEE

IP Casino and Resort Biloxi, Mississippi

OCTOBER 17-19, 2016

VOTING MEMBERS

Kelly Lucas (designee for Jamie Miller)...............Mississippi
Doug Boyd...Texas
Chris Blankenship...................................Alabama
Campo Matens......................................Louisiana
Robin Riechers..Texas
Ed Swindell.......................................Louisiana
David Walker..Alabama

NON-VOTING MEMBERS

Patrick Banks.....................................Louisiana
Leann Bosarge...................................Mississippi
Roy Crabtree...NMFS
Pamela Dana...Florida
LCDR Leo Danaher.......................................USCG
Dale Diaz.......................................Mississippi
Dave Donaldson..GSMFC
Tom Frazer..Florida
John Greene...Alabama
Martha Guyas (designee for Nick Wiley)..............Florida
John Sanchez..Florida
Greg Stunz..Texas

STAFF

Steven Atran.............................Senior Fishery Biologist
John Froeschke..................Fishery Biologist - Statistician
Douglas Gregory...............................Executive Director
Morgan Kilgour.................................Fishery Biologist
Mara Levy..NMFS
Jessica Matos...........................Administrative Assistant
Ryan Rindone.....................Fishery Biologist/SEDAR Liaison
Claire Roberts....................................EFH Specialist
Bernadine Roy.....................................Office Manager
Charlotte Schiaffo..........Research and Human Resource Librarian
Carrie Simmons...................................Deputy Director

OTHER PARTICIPANTS

Pam Anderson...................................Panama City, FL
Shane Bonnof.......................................Houston, TX
Eric Brazer..GMRFSA

J.P. Brooker....................................Ocean Conservancy
Myron Fischer...LA
Richard Fischer...LA
Traci Floyd...MS DMR
Troy Frady...Lillian, AL
Sue Gerhart...NMFS
Chad Hanson................................Pew Charitable Trusts
Scott Hickman......................................Galveston, TX
Bill Kelly...FKCFA
Jack McGovern...NMFS
Gary Morgan..CLS America
Charlie Phillips...SAFMC
Bonnie Ponwith...SEFSC
Lance Robinson..TX
Dale Stevens......................................Pascagoula, MS
Tom Wheatley....................Pew Charitable Trusts, Tampa, FL

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The Administrative/Budget Committee of the Gulf of Mexico Fishery Management Council convened at the IP Casino and Hotel, Biloxi, Mississippi, Monday afternoon, October 17, 2016, and was called to order by Chairman Kelly Lucas.

ADOPTION OF AGENDA
APPROVAL OF MINUTES

CHAIRMAN KELLY LUCAS: I am going to go ahead and make sure everybody is here. I see Mr. Riechers stepped away. We have Mr. Blankenship and Mr. Boyd and Mr. Matens and Mr. Swindell and Mr. Walker. I think I have a quorum.

To begin with, we have Adoption of the Agenda. Are there any changes to the agenda? Are there any objections to the agenda? Seeing none, we will move forward. Next, we're on to Approval of the Minutes. Are there any corrections or changes to the minutes? Do I have a motion to approve the minutes?

MR. DOUG BOYD: So moved.

CHAIRMAN LUCAS: We have a second from Mr. Walker. Any objections? Seeing none, Mr. Gregory, I think that turns it over to you for Tab G, Number 3.

REVIEW OF STATE, COUNCIL, AND NMFS ANNUAL LEAVE POLICIES

EXECUTIVE DIRECTOR DOUG GREGORY: Okay. We've got just the two items to address today. One is that the council, in August, requested additional information about the annual leave policies of the Gulf States and National Marine Fisheries Service before making a decision regarding proposed changes in the annual leave policy. I need the council to make three motions with respect to this. The other item is a review of bonuses that have been given since the bonus program started in 2009, and no action is needed on that. We will start with 4(a).

Tab G-4(a) and 4(b), 4(b) contains a summary of the state and council policies of the other seven councils, as well as National Marine Fisheries Service, as far as how many hours are allowed to be accrued in a year and how it's handled upon separation from employment, and this is very abbreviated, because it does get complicated.

Sometimes the rule change, depending on what category of employee there is, but, in general, 240 or 480 hours is what is used. Mississippi and Louisiana have a policy similar to the current council policy of unlimited leave, from what we could tell from the employment books that we found online, employee manuals.

On 4(a), this is the same thing that you saw in August. I have noted that we need three motions. The first one is -- What I am proposing is we currently have a policy of unlimited leave that can be accrued. I want to change that to put a cap on leave, an annual cap, and I am proposing, or suggesting, 480. It's similar to what the South Atlantic Council has and similar to what some of the states have. Then, at the end of the year, if somebody has more than 480 hours, that rolls over to sick leave, rather than being forfeited.

In addition, I am proposing that the current leave levels that staff have at the end of this year be grandfathered in, because some people have more than 480 hours, and it's wise to just grandfather those in, and that will be reduced as they are used. That's the first motion that I wanted to get from the committee, and I will answer any questions, if you have them, about this.

CHAIRMAN LUCAS: Mr. Blankenship.

MR. CHRIS BLANKENSHIP: I just had a clarification question on what happens in January of 2017 with people that have balances over the 480. If they have 500 hours now, and they get twenty-six days in 2017, and they only take twenty-five days, they are just going to continue to keep their balance over 480 forever if they don't take their days to get down to 480?

EXECUTIVE DIRECTOR GREGORY: Yes, and that doesn't reduce until it's used, and it's not just the employees that have more than 480 hours. Say, if I've got fifteen hours on December 31, those fifteen hours will be grandfathered in, but, as I use it, as it goes down, it won't stay at fifteen. It will reduce as they are used. Is that clear? I'm not sure.

MR. BLANKENSHIP: I am thinking about the people that have more than 480. If they have less than 480, then it's not a problem, because, after January 1 of 2017, until they get to 480 or more, you don't have to worry, at the end of the year, about whether to carry it over or convert it to sick leave, but, for people that have over 480 hours at the end of December of this year -- I am trying to understand how you're going to handle that excess over 480 that they're carrying over into 2017, plus the addition of the time that they earn moving forward, minus what they take in 2017.

EXECUTIVE DIRECTOR GREGORY: Right. If somebody has 500 hours at the end of 2016, say January 1 of 2017, if they've got 500 hours, that is grandfathered in. If they use less hours during 2017 than they accrue, that 500 stays on the books. It stays on the books until it's used, and so each employee will have two different buckets of leave, one that's grandfathered in as of January 1 and the other one that is accrued annually.

If you exceed the ones you have accrued annually, that rolls over, and so, if I have 500 hours on January 1 and that's grandfathered in, and then if I accumulate another 500 hours in 2017, that second 500 hours will be reduced to 480, and the twenty hours will go to sick leave, but the one I started out with on January 1 stays in place. It is grandfathered in.

MR. BLANKENSHIP: I don't want to be hard-headed, but I just want to make sure that I understand. So you're really grandfathering in the time that is over 480 hours on January 1.

EXECUTIVE DIRECTOR GREGORY: We are grandfathering in the leave that everybody has of January 1, whether it's over 480 or under 480. Let's say if I've got fifty hours of leave on January 1, it will stay there until I use it. If, during 2017 and 2018, if I use less leave than I accrue, that fifty hours stays there, because I haven't used it.

CHAIRMAN LUCAS: Mr. Boyd.

MR. DOUG BOYD: I think I understand what you're saying, but it's not what I thought we were doing, but I am willing to listen. What you're saying is, as of January of 2017, there will be two buckets of leave. One is whatever is grandfathered in and one is whatever is accrued from this point forward, to a maximum of 480 hours per year. Is that correct?

EXECUTIVE DIRECTOR GREGORY: Correct.

MR. BOYD: In effect, what can happen is, if you have 500 hours, like you said, at the end of next year, you could end up with 980 hours.

EXECUTIVE DIRECTOR GREGORY: If the person does not take any leave at all.

MR. BOYD: If they don't take any leave.

EXECUTIVE DIRECTOR GREGORY: 480 is what would be accrued, because we also have different amounts. If you're a brand-new employee, you can accrue four hours a pay period. If you've got a certain number of years, you get six hours a pay period. I think, if you've got eleven years of service, it's eight hours a pay period, and so not everybody is going to accrue that 480 either, but, basically that's it.

Come January 1, I will have two buckets of leave. One starts out at zero and one is whatever I had at that point in time, and they're handled differently. If I want to take two weeks of leave in January, and I have no leave in the accrued bucket, it has to come out of the grandfathered bucket, and then that grandfathered bucket gets reduced accordingly. It doesn't stay at the high level. It goes down until it's used, as it's used.

MR. BOYD: Okay. Two additional questions. Does any leave that you use come out of the grandfathered bucket first? Then, once that's all used up, you start using up your maximum annual leave?

EXECUTIVE DIRECTOR GREGORY: No, I haven't proposed anything like that, because we're going from unlimited leave now to a cap, and so I didn't want to be unduly restrictive or complicated with it.

MR. BOYD: Okay. The second question is, and I cannot remember the SOPPs or the administrative manual, but do we have a mandatory amount of leave, vacation, that has to be used each year for administrative purposes?

EXECUTIVE DIRECTOR GREGORY: No, we don't.

MR. BOYD: Not for audit purposes or anything else?

EXECUTIVE DIRECTOR GREGORY: No.

CHAIRMAN LUCAS: All right. Any additional questions? Mr. Walker, do you have a question?

MR. DAVID WALKER: I just had a question. Say you have 500 hours accumulated and then you get an additional 480, or say you got 500 more the next year, but you can only have 980. What about the third year? Can you accumulate another 480?

EXECUTIVE DIRECTOR GREGORY: No. The new bucket, which is your accrual bucket, has a 480-hour limit every year, and so whatever you have above that every year gets rolled over to sick leave, and so you don't get 480 plus 480 plus 480.

CHAIRMAN LUCAS: All right. Any other questions? Do we have a motion? Dr. Crabtree.

DR. ROY CRABTREE: Doug, what happens when an employee terminates or retires? What happens with their sick leave?

EXECUTIVE DIRECTOR GREGORY: The policy is that you will be paid half your sick leave upon retirement, and retirement is age fifty-five with ten years of service. You get half your sick leave up to I think it's 1,200 hours. There is a limit, and I don't recall exactly what it is, but you don't get all your sick leave. You get half of it, up to a certain limit, that the council set years ago, and I haven't changed that at all. Now, upon normal separation, say if somebody just leaves, they don't get any sick leave.

CHAIRMAN LUCAS: All right. Do we have a motion or any suggestions for changes or anything?

EXECUTIVE DIRECTOR GREGORY: Again, we currently have unlimited accrual of leave. I am proposing that we put a cap on it of either 200 or 480, and I preferred the 480, since we are going from an unlimited amount, and that's the motion I'm looking for.

CHAIRMAN LUCAS: Mr. Boyd.

MR. BOYD: Okay. Let me put a motion out there and let's get some discussion on it. **I move that, beginning December 31, 2017, accrued leave in excess of 480 hours at the end of each calendar year will be converted to sick leave, and 480 hours, and I don't know exactly how you want to say this, Doug, but is the maximum amount of leave that may be accrued and that current sick leave balances be grandfathered.**

EXECUTIVE DIRECTOR GREGORY: Current annual leave balances.

MR. BOYD: Yes, I'm sorry. **I said sick leave, but current -- Any sick leave used will come out of the grandfathered balance until used.**

EXECUTIVE DIRECTOR GREGORY: It should be annual leave and not sick leave, but are you proposing that in 2017 that whatever leave I take has to come out of the grandfathered leave first?

MR. BOYD: That's the motion.

EXECUTIVE DIRECTOR GREGORY: Which is not -- Okay.

MR. BOYD: In other words, what happens is you have the two buckets. You are using what you have been grandfathered until it's gone. If you don't use it, it's there for you for the future, but, if you do use it, and you get down to zero, you have 480 hours, if you haven't used any of that.

EXECUTIVE DIRECTOR GREGORY: I have a question. So your intention is, is I have 600 hours at the end of this year, and that's my grandfathered leave, and I don't use it up, but I accrue 490 hours during the year, I am basically capped at that 480 plus my 600 that I started with, because I may not use that much leave. The fact that I have accrued that much leave, and I am talking hypothetical, because I don't have that much leave, but the fact that I have accrued that much leave means I am not taking leave. What this motion essentially will do will cap a person's leave at what they have now plus 480.

MR. BOYD: That is correct, and I believe that people who have accrued that much leave that being grandfathered is fine, and that's not a problem, but I just believe that you need to use what you've already gotten in the past, until it's gone, and then you're under the new program from that point, just like any new employee would be.

EXECUTIVE DIRECTOR GREGORY: If I accumulated more than 480 hours in 2017, the excess would roll over to sick leave, and I would be capped at the 480. What that means is if I have to take all my leave from the grandfathered bucket and I can't -- I don't have enough time to take enough leave, and all the leave I will accumulate in the second year, 2018, will essentially be lost at the end of that year. That's what is going to happen.

MR. BOYD: It's going to be lost anyway. If you're a new employee, and let's that scenario, if I am thinking correctly. If you're a new employee and you accumulate leave, you can get up to 480, right?

EXECUTIVE DIRECTOR GREGORY: Carrie has a comment.

DR. CARRIE SIMMONS: Just to remind the committee, if you are a new employee, I believe it's four hours of accrued annual leave, up to three years of service, and so that would be 104 hours in your first year. Then, if you get six hours, that's 156 hours of annual leave. If you get eight hours, if you've been there over eleven years, at the Gulf Council, you can get up to 208 hours. That is twenty-six days annually, and so nobody is getting up to 240 or 480 hours of annual leave in a year. Thank you.

MR. BOYD: Then that doesn't make much sense that we're talking about 480 if we can't get there, but my thought was that every year you accumulate some more, and, at some point in your career, you could get to 480.

EXECUTIVE DIRECTOR GREGORY: Right. My concern is some staff -- This policy of unlimited leave has been in place for probably fifteen years or so. Some staff have accumulated so much leave that they will never use it, and so they're going to, I guess, be impacted by this more than new employees, because they will never be able to use their grandfathered leave, and so there won't be a year -- Not next year, like I said the first time, but, three or four years from now, where they just will lose their leave every year. It will be converted to sick leave, which is better than having it forfeited, but we have some staff that have quite a bit of leave that's been accumulated over the last twelve years.

MR. BOYD: Maybe I am confused. If we're starting the new bucket, everybody is under the same rules in the new bucket, and so they're not going to get to 480 either in the new bucket.

EXECUTIVE DIRECTOR GREGORY: They will if they are required to take all their near-term future leave out of the grandfathered bucket. They will never touch the accrued bucket, because they have so much leave accrued already.

Let's say if somebody has been -- This is probably somebody that's been there long enough to get eight hours a pay period, and so they can get 208 hours of annual leave a year. That means, within three years, they will have met their cap there, and they will still be working off of their grandfathered leave, if they take any leave, much leave at all, and so that 480 cap -- They will lose all future leave after that, from three years hence.

MR. BOYD: Well, there is two points there. One is you're not going to lose it, quote, unquote, because you're going to convert it into sick leave. The other point is there is a maximum we're trying to get to, and so, yes, anything above the 480 would be the maximum. That's what we're trying to put in, is a maximum amount, and so, yes, they would lose it after that. So would any other employee who gets to 480.

EXECUTIVE DIRECTOR GREGORY: My concern is that we're going to have a rush of some employees wanting to take a lot of time off. That's my concern.

MR. BOYD: Well, if they took a lot of time off, either way, they're burning their leave.

EXECUTIVE DIRECTOR GREGORY: I am sorry. I am not trying to argue with you.

MR. BOYD: No, that's fine. Argue with me. The point is, and you and I have talked about this a lot, Doug, but the point is we want to get to where there is some maximum accrual of leave, and we also, I think, and this is different topic completely, is we need to get to some use of that leave each year for administrative purposes and for audit purposes.

In my opinion, it's a dangerous practice to have someone who can go for years in any organization without ever leaving their post, and so I would like to see something like that, but that's a different topic. The topic here is, if we're going to move from an unlimited amount of leave that can be accrued to an amount that is a maximum, then it's a maximum, whatever it is.

CHAIRMAN LUCAS: I have a motion on the board, and I don't know if we want to have a second on the motion before we continue the discussion.

MR. LANCE ROBINSON: I will second it.

CHAIRMAN LUCAS: Thank you, Mr. Robinson. All right. Camp has some discussion.

MR. CAMPO MATENS: I've been waiting for the second, patiently, I might add. I worked for a long time, and leave and sick leave are not supposed to be enhancements to retirement. Leave is supposed to be to get away from the office and relax your brain and take a break with your family. How do we accrue sick leave?

EXECUTIVE DIRECTOR GREGORY: We have some healthy employees.

MR. MATENS: But how do you accrue sick leave?

EXECUTIVE DIRECTOR GREGORY: You accrue sick leave at four hours per pay period working.

MR. MATENS: So you can accrue a hundred hours a year, thirteen days. That is unlimited?

EXECUTIVE DIRECTOR GREGORY: Yes. When you retire, you get half of it, up to a certain limit. If you simply move on, what I call normal separation, you don't get any sick leave payout.

MR. MATENS: Okay, but you can retire at ten years. This is interesting, for me. My personal position is the purpose of leave is to give an employee a break from the grind of work, and I pose this question, I hope, without prejudice. An employee wants to take a couple of days off. Do they take it as sick leave or annual leave?

EXECUTIVE DIRECTOR GREGORY: Annual leave, unless they're sick. If a person takes more than three days off, we make them complete a form. If it's sick leave, we make them document not the exact purpose, but have a doctor's note or give us some documentation as to why they were out for more than three days.

MR. MATENS: Well, I feel like whoever it was over there, Doug I think, said, but I'm not trying to be a jerk about this. This is a management process that is there for a reason, and it's been subverted, and it has changed into a retirement enhancement, and that's a problem for me.

CHAIRMAN LUCAS: To that point, Dr. Crabtree?

DR. CRABTREE: I just want to make sure I'm understanding what the potential financial liability to the council would be if you pass this, and I'm not on your committee, but, as I understand it, if you did this, then you carry over 480 hours. Then you can potentially, if you've been here for I think it was eleven years or whatever, and you're in the eight hours per pay period, and you didn't take any annual leave in your final year of work, so you could carry another 208 hours. Then I believe the cap I heard was 1,200 hours is the cap on sick leave, and you can get paid for half of it, and is that correct?

EXECUTIVE DIRECTOR GREGORY: I think so. I'm not sure. Can you look it up for me, Carrie? Charlotte is saying yes.

DR. CRABTREE: Potentially, an employee could, at retirement, be paid for 1,288 hours. Is that correct?

EXECUTIVE DIRECTOR GREGORY: Yes.

DR. CRABTREE: That's a pretty significant -- That's a generous payout.

EXECUTIVE DIRECTOR GREGORY: If I may, that's why I am proposing a cap. Right now, and we are going to address this in the next item or motion, but the current policy has been to let an employee run out their annual leave and/or sick leave, if they’re retired, biweekly and stay on the payroll for two years or more.

I am trying to stop that from continuing into the future, so that -- Right now, we have just a few employees in that category. Without the cap, we could have a lot of employees in that category, and so what this is doing, this cap, is reducing the financial burden on the council, the potential future financial burden.

DR. CRABTREE: I get that, and I understand and agree with that, but these things need to be capped. I am just pointing out that it still leaves you in a situation where you could be paying out -- Basically, a year is 2,080 hours, I think, and so you’re talking about paying half of someone’s salary out to them when they terminate, and that would seem to be the total liability the council could have on an employee, and it might be less.

CHAIRMAN LUCAS: Mr. Boyd.

MR. BOYD: Mr. Gregory, let me try to clarify something that Dr. Crabtree said, just to make sure I understand. He used the scenario of the last year of someone’s employment, and they have 480 hours accrued of leave. They would not get any more added to their accrued leave that last year, because they already have 480 hours, and is that correct?

EXECUTIVE DIRECTOR GREGORY: If I have 480 hours of accrued leave as of January 1, 2020, and if I quit on December 28 at the end of 2020, and I don’t use any leave at all that year, I have my 480 plus the 208 that I accrued that year, because I don’t lose it until the end of the year, and so, being strategic, I will quit before December 31, so I wouldn’t lose it, and so, yes, that 200 hours could be on top of the 480, plus the grandfathered leave.

MR. BOYD: Then I need to modify my motion to -- Again, I can’t read the motion from here, but 480 hours is the maximum at any given time. That’s what I thought we were saying. In other words, you can’t have a two-day window in there where you get another two-hundred-and-something hours. 480 is your maximum. Anything above 480, at any given time, would roll to sick leave, as you suggested.

EXECUTIVE DIRECTOR GREGORY: Most organizations do this at the end of the year. I have never heard of it being a rolling cap like that.

CHAIRMAN LUCAS: I have Chris Blankenship first and then Dr. Crabtree.

MR. BLANKENSHIP: I was just going to say that, with us, you have 480 at the end of the year, but then, as you start to accrue leave, you will get over 480 throughout the year. Then, when it comes to December 31, you will have either had to have used the leave you accumulated over 480 by December or you lose that leave above 480 at the end of the year, and so there will be times during the year where you will be over.

If you wanted to take a vacation say in September, as you start accumulating leave in January, you will build that up. I think, throughout the year, you will have balances over 480, but what really matters is what happens on December 31.

CHAIRMAN LUCAS: Dr. Crabtree.

DR. CRABTREE: That's the way it is in the federal government, except that, with us, the cap is 240 hours of what you can carry over, and so you wouldn't have more than a little over 400 hours at the end of it, and Doug is right that most employees retire in December some time.

The other thing in federal service though is we do not get paid for any of the sick leave when you retire, but the sick leave is counted to your time in service, when they figure how many years you have in.

CHAIRMAN LUCAS: Ms. Bosarge.

MS. LEANN BOSARGE: Thank you. I am not on your committee, but I was just going to play devil's advocate just for a second, and I'm trying to put myself in somebody else's shoes. I agree with Camp that we don't want this to be used as a supplement to retirement.

On the flip side of that though, if we have allowed it all of this time, and that has essentially been a planning tool for that individual, I think that's the important part of the grandfathered.

Going forward, we don't want to encourage that, but I don't want to punish someone that was a forward-thinking person and planned that way and then we kind of forced them to start using that down, and I have no idea who these people may be and how close to retirement they may be, but, if they are close to retirement, I would hate to throw that at them at the last minute too, and so just do whatever you please, but I just want to try and think about it from the other angle too. Do we want to truly grandfather it, rather than make them take it out of that every time, which is essentially going to make it go away?

CHAIRMAN LUCAS: All right. Thank you. Just one second, Camp. Mr. Boyd was in the process of modifying his motion, and I wanted to see where he stood.

MR. BOYD: I think, based on what Chris said, that I will not modify my -- If that is the way the government is using it and that's the way you all are using it, I think that's fine.

CHAIRMAN LUCAS: All right. Thank you. Mr. Matens.

MR. MATENS: I think we're kind of shooting from the hip here. It's difficult to look at all of these numbers without real numbers. What is the financial liability of this organization? I think I would like to know what that is and what are some alternatives.

I will just be honest with you. I was tempted to make a substitute motion to change the 480 to 240, but that's just reacting, and I don't know what that means, and I would like to know what that means. Can I suggest that we ask Doug to give us some numbers? What is the reality of this? Can we revisit this at a later date?

EXECUTIVE DIRECTOR GREGORY: That's what you asked me to do in August. The reality is, currently, it's unlimited. Currently, it's unlimited, and the impact is growing, because the National Marine Fisheries Service allows us to put money into a bank account to cover this leave. That's money that comes out of our operational budget, and so, by putting a cap of 480 hours, in essence, in my mind, we have solved that problem and we won't have that problem in the future.

MR. MATENS: To that point, we don't -- Do we know, given the present staffing position, ten years out, if we don't do anything, what does it cost us? If we do this, what does it cost us?

EXECUTIVE DIRECTOR GREGORY: We try to maintain the bank account at least 75 percent funded, under the presumption that everybody leaves at once, and so we've got that money in the bank account for the leave that we have accumulated now. Going forward, that burden will -- It's like, I think, funding a pension upfront. That burden will grow, but this is an opportunity to prevent this burden from growing into the future.

I mean, it has grown in the past. It's not unsustainable. It's something we're managing, and so the cap really just prevents a future problem from occurring with having to have an excess amount of money set aside. It's similar to funding a pension upfront, rather than winging it at the end. We're funding these leave accumulations upfront.

MR. MATENS: I understand that. How much money do we have in this account? Forgive me, Doug. I am not trying to put you on the spot, and I don't doubt that you don't know. I probably wouldn't either.

EXECUTIVE DIRECTOR GREGORY: I don't have Beth in my ear right now, but I think it's up to $300,000, and we're covering both annual leave and sick leave.

MR. MATENS: Good. If we stay where we are now and we keep the status quo, in X number of years, and pick a number, ten or five, what will we have in that account? What will we have funded that account to? If we go to this, in that same period of time, what differential is it?

EXECUTIVE DIRECTOR GREGORY: If we go to the 480 hours, we will basically cap it where we are now, as far as exposure goes. If we continue unlimited, I don't know what the trajectory is.

MR. MATENS: I have another question, and it's somewhat off the subject, but it's not. Your employees, I'm sure, work more than a forty-hour week, many of them. There are a whole bunch of them right here away from home, and is that taken care of in your system. Do they get compensatory time?

EXECUTIVE DIRECTOR GREGORY: We keep track of compensatory time, and we accumulate compensatory time when we travel, public hearings and council meetings. It's coming in early and staying late and traveling on the weekend. For the most part, people use it as they accumulate it. There is no real accumulation. We did put a cap last year, or two years ago, when we revised the handbook, of 120 hours of comp time, maximum. Nobody can accumulate more than that and have that on the books, and so we're comfortable there.

MR. MATENS: Well, I'm sure that you are, but, going back to my original statement, what is the purpose of annual leave? I think the purpose of annual leave is to have employees get off the job and get their minds squared away from highly stressful jobs.

Right now, it looks like that we've corrupted the system or we've changed the system, so that you can get off on compensatory time and convert this all to retirement pay, and I'm uncomfortable with that.

EXECUTIVE DIRECTOR GREGORY: Some of us just live to serve the council and don't take annual leave.

MR. MATENS: No, Doug, I hope that you don't. You're too valuable on the job.

CHAIRMAN LUCAS: All right. We have a motion on the board, and we've had plenty of discussion of the motion. Let's just go ahead and take a vote on this motion. Mr. Swindell.

MR. ED SWINDELL: What happens to sick leave? Does sick leave continue to accrue each year, or is there a limit of sick leave for the year?

EXECUTIVE DIRECTOR GREGORY: There is no limit on sick leave.

CHAIRMAN LUCAS: Mr. Walker had a follow-up on that.

MR. WALKER: Has anyone ever reached 1,200 hours? Was that the cap for sick leave? Are you able to donate some of your sick leave time to others who work with you?

EXECUTIVE DIRECTOR GREGORY: Yes, we have a policy where, if someone is out, particularly with FMLA, which is like a three-month protected leave situation, if they don't have enough leave to cover their hours, I have the discretion of authorizing other staff to donate leave to them, and we have done that in the past, and so, yes. People who have had a lot of leave have been fairly generous in donating leave to others who have needed it.

CHAIRMAN LUCAS: All right. Thanks. There is a motion on the board. **All those in favor of the motion, please raise your hand.**

EXECUTIVE DIRECTOR GREGORY: **Six.** If I may, the intent is, on that last line, annual leave used will first come out of grandfathered balance. I just wanted that clarification.

MR. BOYD: Yes, and I took that from your second blue paragraph in here, where it says that employees will have their current accrued annual leave grandfathered at the existing level, but will be reduced as it is used.

EXECUTIVE DIRECTOR GREGORY: But that wasn't the intent. What is in my document here is not the same as your motion.

MR. BOYD: It says "but will reduced as it is used". I'm just saying that it is used first.

EXECUTIVE DIRECTOR GREGORY: Right, but that's a major difference.

CHAIRMAN LUCAS: All right, Mr. Gregory. I know that took care of two of your three motions that you needed. No, it didn't. It took care of one, but I am going to ask real quick though, because I am running over, but what is the pleasure of Madam Chair?

EXECUTIVE DIRECTOR GREGORY: Maybe these next two will be less complicated.

MS. BOSARGE: All right. I will give you about ten more minutes, and then, whatever we don't finish, we will work on at Full Council. Luckily, tonight, we have a closed session, and so we can just work late if we need to.

CHAIRMAN LUCAS: All right. Thank you. Go ahead, Mr. Gregory.

EXECUTIVE DIRECTOR GREGORY: The blue paragraph at the bottom that is struck out is what I presented to you in August. Upon further discussion with staff -- What that blue paragraph that we struck out says is it's up to the discretion of the Executive Director whether somebody gets paid a lump sum or gets to use their annual leave and sick leave biweekly, get paid biweekly.

I am changing that and breaking it into two parts, because one thing is somebody that has accumulated leave, if you give them a lump sum payment, it's a really heavy tax burden on them, and, since our policy historically has been, and, even though it wasn't written in the handbook, it's been handled this way.

Upon separation of employment or upon retirement, annual leave can be paid out either as a lump sum or as biweekly payments at the employee's discretion and not the Executive Director's. This next sentence is new. Upon separation of employment due to cause, annual leave will be paid as a lump-sum payment only.

In other words, letting somebody run out their annual leave biweekly is kind of a perk, and, if somebody has to leave with cause, they should not have that perk, and so they get a lump-sum payment only, and so I would like a motion to accept that wording as is.

CHAIRMAN LUCAS: All right. Dr. Crabtree.

DR. CRABTREE: Doug, if you do the biweekly payment, does that mean that technically the employee is not separated? Does that mean they continue to get sick leave benefits paid for by the council and those kinds of things? Does their health insurance continue to be covered by the council?

EXECUTIVE DIRECTOR GREGORY: Right, and they're still going to be on the payroll. They will still have their insurance policies in place. The next paragraph, the third motion, addresses sick leave and annual leave during the payout, but, yes, as long as you're on the payroll, you will get your health insurance and your life insurance taken care of.

CHAIRMAN LUCAS: Ms. Guyas and then Mr. Robinson.

MS. MARTHA GUYAS: Kind of along those same lines, if you have somebody who is still on the payroll, but they're not working, are you -- Is that holding you up from hiring their replacement?

EXECUTIVE DIRECTOR GREGORY: Not if we have the sufficient funds to do that, and, again, the annual leave payout is already banked. That's not an extra cost to us. The only extra cost to us would be about $30,000 a year for the insurance premiums for the family.

MS. GUYAS: Right, but at least, in my case, if I am paying somebody out and they're gone, they're finished, but they're just running out leave, I can't put anybody in their position until they are off the payroll, because, technically, that position is still filled, and so I just wanted to make sure that wasn't the case, where we had holes in the council for six months.

EXECUTIVE DIRECTOR GREGORY: No, we don't have that same constraint.

CHAIRMAN LUCAS: Mr. Robinson's question has been answered. Mr. Matens.

MR. MATENS: Doug, do you have any idea how long of a period these biweekly payments may go if Employee A separates?

EXECUTIVE DIRECTOR GREGORY: Well, 480 hours is three months.

MR. MATENS: 480 hours is three months, and so you would eat 480 hours up in three months of payments every two weeks, and is that a correct statement?

EXECUTIVE DIRECTOR GREGORY: Right, and it doesn't matter, as far as retirement contributions go, whether the person is paid in a lump sum or a biweekly amount. If the contribute their 8 percent, they get their match and their 6 percent, whether it's lump sum or paid out biweekly. The advantage of going biweekly for the employee is, one, the tax impact, which is a big one, and, two, they do get to maintain insurance for that length of time. Like I said, if it extended over a year, it would cost us $30,000 to $40,000 a year, which I think is sustainable, as far as insurance premiums go.

MR. MATENS: If I understand correctly, if an employee is being paid biweekly this amount of money, and all of that three-month period, if it's three months, occur in the same tax year, the tax is not changed, other than the fact that you have to withhold at a higher level, and is that correct? At the end of the trail, it's even.

EXECUTIVE DIRECTOR GREGORY: Right, but then we've got some employees that have accumulated some hours that are more than 480, and, depending on how it's handled -- If you run it out biweekly and it goes over a two-year period, your tax rate is going to be a lot less than if you have to get it all in one year.

MR. MATENS: That begs my first question. How long is this going to last for someone? This is picking a nit, and forgive me, but does biweekly mean twice a week or every two weeks?

EXECUTIVE DIRECTOR GREGORY: Every two weeks.

MR. MATENS: Okay, and that's correct English? I'm an engineer, and so someone correct me.

CHAIRMAN LUCAS: All right. Thank you. Do we have a motion of how to tackle this? Ms. Bosarge.

MS. BOSARGE: If nobody has a motion, we probably need to bring this back up in Full Council, after we've had a chance to maybe chew on it a little bit. If we have some more requests for information from Doug that we want to look at specific numbers, just think about that between now and Full Council, and would that be okay with you, Madam Chair?

CHAIRMAN LUCAS: That is fine with me. I do note that Mr. Gregory had one other item on the agenda, and do we want to go ahead and carry that one over to Full Council as well? It was Item V.

MS. BOSARGE: Yes, I think we had better, or we may never make it through this day.

CHAIRMAN LUCAS: All right. Thank you.

(Whereupon, the meeting recessed on October 17, 2016.)

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October 19, 2016

WEDNESDAY MORNING SESSION

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The Administrative/Budget Committee of the Gulf of Mexico Fishery Management Council reconvened at the IP Casino and Hotel, Biloxi, Mississippi, Wednesday morning, October 19, 2016, and was called to order by Chairman Kelly Lucas.

CHAIRMAN LUCAS: All right. We are going to pull back up the agenda. Just to briefly recap where we left off, we had only made a motion discussing how to handle accrued leave and grandfathered leave, and so that was where we left off, and we were discussing the separation of employment and how we would handle paying out retirement payments or payments left over when somebody left due to cause, and so I will turn it back over to Doug Gregory, just to recap a little bit on that.

EXECUTIVE DIRECTOR GREGORY: Okay. We will finish the discussion that we were starting in committee and then go back and kind of revisit the committee report itself. In the briefing book, and at the last meeting, I had a statement in here that, upon separation of employment, it would be up to the discretion of the Executive Director whether annual leave, accrued annual leave, would be paid biweekly or in a lump sum.

Upon further discussion with the staff since I sent that out in the briefing book, what I'm suggesting here in red -- I guess it's not in red in your committee reports, but, with this Paragraph Number 1, the first sentence is already in the handbook.

It says: Upon separation of employment, an employee will be compensated for unused annual leave at the hourly rate in effect at the time of termination. That's already in the handbook. What I am suggesting to add is that, upon separation of employment or upon retirement, annual leave can be paid out either as a lump sum or as biweekly payments, at the employee's discretion and not the Executive Director's discretion. This puts in writing what our current policy, unwritten policy, has been in the office from the very beginning.

Then I am adding, upon separation of employment due to cause, annual leave will be paid as a lump-sum payment only, and so I would like to get a motion approving that or any comments on that, but I think it's reasonable with what we've got and with the 480-hour cap, to continue to leave that up to the discretion of the employee on how they want to handle that. It's no great burden on the council. It's sustainable, but, upon separation, I think the lump sum payment should be made, so that it's just a clear termination.

CHAIRMAN LUCAS: Mr. Gregory, I actually have some questions about this. In terms of it being the employee's discretion and not the discretion of the Executive Director, would there come a time when it is not -- I mean, it wouldn't be possible for you to pay out these biweekly payments and it could create a burden?

EXECUTIVE DIRECTOR GREGORY: No, I don't envision a budget problem at all with that, particularly with the 480-hour cap going forward.

CHAIRMAN LUCAS: When we were talking about the 480 cap, and then there's also the potential that there is the -- You pay out the sick leave, up to 1,200 hours, and then any comp time you pay out as well, and you could essentially be keeping these employees -- With the 480 hours and the 1,200, that's already forty-two weeks, I think, of time, versus any comp time. I mean, you could be having these employees basically stay on your books for an entire year?

EXECUTIVE DIRECTOR GREGORY: With the 480 hours, that's three months. The comp time is limited to 120 hours at any one time, and so that's a month maybe, less than a month. The sick leave is paid out by half upon retirement. If someone just leaves the employment of the council, their forfeit all their sick leave.

The situation we have with a few people having more than 480 hours of leave on the books we have taken care of by maintaining a bank account that we keep funded just in that case, and we've been funding this close to 100 percent, which is extremely conservative, because it's not likely the office will just be eliminated one day and we would all have to leave, and so we've got that well funded, and so that's not a concern. We brought that up to 100 percent funding with our last five-year grant, at the end of the grant period, where we had some excess money.

CHAIRMAN LUCAS: Robin.

MR. ROBIN RIECHERS: Doug, because I thought you had said the other day that it was funded at 75, and you may have been contributing 100 now, but the account was funded at 75 percent, if I am recalling that.

EXECUTIVE DIRECTOR GREGORY: It's interesting that you say that. I don't remember saying that, but I've been thinking of going back and discussing with our Administrative Officer and with Carrie trying to go back, going forward, to a 75 percent funding, because 100 percent is probably too conservative.

MR. RIECHERS: Part of this, and I think what Kelly is talking about a little bit, is -- While I appreciate the fact that you've thought through it and think that, with the 480 and other things that you've done that you probably have a reasonable balance set away to handle those things, and I think it's getting a little bit at what Camp had said in committee, which was, to help us understand that, if you run through a couple of scenarios, it's just helpful in understanding how that might look.

I think Kelly is getting at that, while I think you handled the lump sum payments, there are other costs still to you as an organization, or to us as an organization, as you keep those people on the payroll, and I may not have done the math right, because I think you -- What did you say about sick leave? Did you say how many hours?

EXECUTIVE DIRECTOR GREGORY: Upon retirement, which is age fifty-five and ten years of service, you get one-half of your sick leave, up to a maximum of 1,200 hours.

MR. RIECHERS: Okay, and so 1,200, 480, and then the small amount of 120, that's forty-five weeks, I believe, is what I'm coming up to, if I am doing the math right. That's a considerable cost still moving forward, and not that we don't think you have thought about how to handle that, but, from an insurance standpoint and other perspectives.

I am kind of like Camp. If you can help us maybe -- I am opposed to the language we have here today, but could we also just maybe have that, as we look at those other items and understand the full cost of that to the organization? You can do it on a one-person basis, realizing that, if you did have multiples leave during that same year, you're going to be hit twice with that or three times or whatever it could be.

EXECUTIVE DIRECTOR GREGORY: No one has -- I think the most sick leave anybody has is probably about 700 hours, and so half of that is three-hundred-and-some, and so we're not even close to that, but, again, whatever leave we have accumulated is already -- The funds have already been put in a bank to cover that, and so it's not like it's going to be an instant impact on our operational budget. It's already covered, and we keep it at, going forward, at least 75 percent covered for the entire staff. Right now, it's about 90 percent or 95 percent covered.

CHAIRMAN LUCAS: Mr. Matens.

MR. MATENS: Thank you, Madam Chair. I have some concerns. I have some concern about if we're paying people biweekly for some period of time, and 1,000 hours is half a year, them still remaining as employees. I would be curious if there was any mechanism where that could happen, if they could get their payments that way, but they would not be receiving employee benefits.

The second point that I would like to make, and I know it's picking a nit, but you have to forgive me, but the definition of biweekly is either every two weeks or twice a week in the official definition, the one that I just looked up, and not that I am an English major, and so I think it would be -- If we just clarified that and said the payment would be every two weeks, I would be comfortable. Thank you.

EXECUTIVE DIRECTOR GREGORY: Yes, it's every two weeks.

MR. MATENS: The point that I'm making is if we could clarify that in the document.

CHAIRMAN LUCAS: All right. Mr. Blankenship.

MR. BLANKENSHIP: I am just a little bit torn on this, because I don't want to do anything that's detrimental to the people that are currently working there that say are within ten or fifteen years of retirement that have planned on this, but I don’t think it’s a sustainable process to leave for perpetuity.

Whether we do something with new employees that are hired after January 1, if we make a recommendation to do something with them and people that have been employed there ten years or fifteen years, and I’m not sure if there is a vesting time period with council, but I do think -- I don’t think we need to leave this as the biweekly payments as the policy from now on. I think we need to make some change.

CHAIRMAN LUCAS: Mr. Matens.

MR. MATENS: To Chris’s point, as he thinks and I think, I don’t want to see anybody damaged with what they have up to now, and so I am more than comfortable with leaving us with what we have up to now. However, I think, in the future, not just for new employees, but I think the policy going forward should be different, and we should discuss how different that should be.

CHAIRMAN LUCAS: Mr. Swindell.

MR. SWINDELL: If an employee takes the two-week payments, I assume that health insurance continues during the time that they are then still council employees, and what about -- Is there any kind of -- I don’t know about a retirement system or Social Security, and I don’t know what the council is responsible for.

EXECUTIVE DIRECTOR GREGORY: Excuse me, staff, but is that the -- We need the committee report on the screen. Okay, and so your question was our estimate is, if someone were to stay on the payroll for a year, as far as insurance costs go, it would be about $30,000 to $35,000 a year to the council.

MR. SWINDELL: All right, and does the employee pay part of the insurance costs?

EXECUTIVE DIRECTOR GREGORY: No, not at this time.

MR. SWINDELL: The council is paying all of the insurance costs?

EXECUTIVE DIRECTOR GREGORY: Right. Before I started working here, the council changed their insurance company at a substantial savings and went to a high-deductible plan. With that high-deductible plan, the total insurance cost was covered by the council, at a substantial savings of at least I think $100,000 a year.

MR. SWINDELL: Okay. That’s fine, but I assume, if they take the lump-sum payment, when does the insurance end?

EXECUTIVE DIRECTOR GREGORY: At the end of the month in which that payment is made.

MR. SWINDELL: Is there any COBRA coverage that the council is under?

EXECUTIVE DIRECTOR GREGORY: Right. We’re right about the twenty-employee line. If you’re over twenty employees, official COBRA kicks in. If you’re under twenty employees, Florida has a similar program to COBRA. I think they let you buy the same insurance for eighteen months. We do not have a policy where the employee can keep the council insurance but pay 100 percent of the premium. That would be nice, because, by being in a group plan, you do have savings to the employee, but, right now, we don’t have that feature, and so the employee, at best, has eighteen months that they can continue the current insurance before they have to get their own insurance.

MR. SWINDELL: So we would still be paying even if they take the lump sum?

EXECUTIVE DIRECTOR GREGORY: No, the COBRA or the Florida version, the employee pays the entire premium.

MR. SWINDELL: For how long?

EXECUTIVE DIRECTOR GREGORY: For eighteen months, and then they have to get their own insurance, because the COBRA feature disappears.

MR. SWINDELL: What is the retirement system? Do you have Social Security or do you have a retirement system or what kind of retirement system do you have within the council staff?

EXECUTIVE DIRECTOR GREGORY: We have a 401K, and that’s been in existence since the early 1980s.

MR. SWINDELL: All right. Do you pay Social Security?

EXECUTIVE DIRECTOR GREGORY: We pay what employers typically pay.

MR. SWINDELL: I know, but, I mean, the employee pays Social Security?

EXECUTIVE DIRECTOR GREGORY: Right, and income tax and Medicare tax. That all comes out of the employee's salary.

MR. SWINDELL: Some government agencies don't pay Social Security, and so that was the reason I was asking you. Thank you.

CHAIRMAN LUCAS: All right. We are still looking for a motion on how to tackle these suggested edits, and I don't know if anybody has the idea of a motion similar to this one or if somebody would like to incorporate the suggested changes. Mr. Matens.

MR. MATENS: Thank you. Let's get that back up on the board again. I am not going to make any motion, but I am going to suggest a change, a friendly change, to this one. I suggest a change, if Mr. Gregory will agree, and it's just housekeeping. In the red language, upon separation of employment, we change the word "biweekly" to "every two weeks".

EXECUTIVE DIRECTOR GREGORY: That's no problem at all.

MR. MATENS: I guess we could clean up the language as a payment every two weeks, as opposed to every two weeks payments.

EXECUTIVE DIRECTOR GREGORY: I separated this from the next item because I know the council oftentimes likes to take items one at a time instead of lumping them, but the second item does relate to this, and this second item is, when annual leave is paid out every two weeks, due to separation from employment, accrual of further annual leave and sick leave will not be allowed during the payout period.

This is one thing I am suggesting that we discontinue, a practice that had been done in the past. My logic is that, if someone has separated from service and they are no longer technically working for us in a productive manner, even though they're still on the payroll, it doesn't make sense for them to accumulate more sick leave and, in a similar manner, annual leave, but definitely sick leave, because it just doesn't make sense.

It's a minor change, because we accumulate sick leave at four hours a pay period and annual leave at six hours a pay period, but it is going to cost staff who get paid biweekly some money that, in the past, they would have gotten. Here, you see an attempt from me to moderate what the potential impact of paying something out every two weeks could be on our budget, and so you can take this together or as separate motions.

CHAIRMAN LUCAS: Right. Mr. Blankenship had something.

MR. BLANKENSHIP: Back to Number 1, and I guess that I would make a motion that we add a sentence that says "Any employee hired after December 31 of 2016, upon separation, will only be paid their annual leave in a lump sum."

EXECUTIVE DIRECTOR GREGORY: What was the date, January 1 of 2017?

MR. BLANKENSHIP: No, December 31 of 2016. Any person hired after this year. Any person hired after December 31, 2016, upon separation of employment, will be paid their annual leave in a lump sum.

EXECUTIVE DIRECTOR GREGORY: That seems to be a reasonable thing to do, in that anyone hired after December 31 is going to be limited to 480 hours, and a lump-sum payment is not going to be a tremendous tax burden, and I know the IRS lets you spread out a lump sum over a certain number of weeks to try to reduce that tax burden, and so I think that's very doable.

CHAIRMAN LUCAS: Mr. Boyd.

MR. BOYD: Did we also want to include the payout of sick leave, the 50 percent of the sick leave, in that same motion?

MR. BLANKENSHIP: No, I intend it to be their leave. Whatever leave they're paid, it would be paid in a lump sum for anybody that starts after --

MR. BOYD: Okay. So it would be annual leave and sick leave?

MR. BLANKENSHIP: Yes. Thank you.

CHAIRMAN LUCAS: All right. Mara.

MS. LEVY: I just want to try and be clear. Is the intent to add this sentence to what was above and make one motion to adopt of all of that, because you didn't make a motion to adopt the red text above about having the discretion up until that point. I also want to make clear that, even though we're in a document called "Full Council Motions", that this is still a committee motion, because you're in committee.

MS. BOSARGE: Yes, you're correct, Mara. We went back into our

Administrative/Budget Committee. Although some of the things they're putting on the board, the verbiage, may have been pulled out of the original report that was written up, we did state that a new committee report will be sent out to the group, and we will go over that at Full Council.

EXECUTIVE DIRECTOR GREGORY: I apologize. I missed that.

CHAIRMAN LUCAS: All right. We have some text up here and part of a motion. Do we want to try to combine this motion or do we want to tackle all three separately? What is the will of the committee?

MR. BLANKENSHIP: I guess my thought process was that we can either add this to Number 1 and then approve all of it together or to make a motion that we approve this and then add it to Number 1 and then approve both of them together. I will defer to you, Madam Chairman, and whatever you prefer.

CHAIRMAN LUCAS: Let's see if we can add all the text, the verbiage, all together, including what Mr. Gregory was discussing that he had separated out. Then we'll see if we can get a --

EXECUTIVE DIRECTOR GREGORY: That would be all the text in the red as well as what Mr. Blankenship just suggested and what Mr. Matens suggested. Wherever it occurs, we will change "biweekly" to "every two weeks" in the handbook.

CHAIRMAN LUCAS: Just take the word "motion" out. All right. Now, that should be the complete motion, if Mr. Blankenship agrees.

MR. BLANKENSHIP: So what is done with the sick leave now? That is paid in a lump sum or paid out over time as well?

EXECUTIVE DIRECTOR GREGORY: Correct, and it's only paid out upon retirement, and only half of it is paid out upon retirement.

MR. BLANKENSHIP: That's just not -- The sick leave is just not included in the other portion of Number 1, and is that covered somewhere else?

CHAIRMAN LUCAS: In the handbook. Is it not covered under sick leave in your administrative handbook? Ms. Levy.

MS. LEVY: Maybe you just want to say "leave", and so you could say be compensated for unused leave at the -- Then you're covering both sick and annual leave.

EXECUTIVE DIRECTOR GREGORY: The handbook currently reads, referring to sick leave, payment to be made as a cash payout, subject to withholding taxes and included as a regular payroll check, to the extent funds are accumulated.

Then it goes on to explain how the council maintains a leave fund to handle expected staff turnover, to minimize impacts on the operating funds. The council can make partial payments if there is not any funds available, but that's not going to be the case, and so it says a cash payout subject to withholding taxes and included as a regular payroll check.

MR. BLANKENSHIP: So is sick leave only paid as a lump sum, or is it paid every two weeks, if they desire?

EXECUTIVE DIRECTOR GREGORY: Historically, we've been paying it out two weeks, every two weeks, like we were annual leave.

CHAIRMAN LUCAS: If we change the unused -- Instead of "annual leave or sick leave", if we just say "unused leave", would --

EXECUTIVE DIRECTOR GREGORY: Yes, it would.

CHAIRMAN LUCAS: Mr. Boyd.

MR. BOYD: Mr. Gregory, does that section speak to the one-half of the total? I didn't hear that.

EXECUTIVE DIRECTOR GREGORY: Yes, because we revised the wording in this two years ago and with an example. It says, upon an employee's retirement from the council service, as defined in accordance with the provisions of the retirement plan, or upon the death of an employee, 50 percent of unused sick leave is payable, up to a total of 1,200 hours. Then it has an example of if you have 3,000 hours of sick leave that half of that is 1,500. Then you would lose some. If you've got less, you just get the half.

CHAIRMAN LUCAS: Ms. Bosarge.

MS. BOSARGE: I was just reading it and trying to think about if I was reading this a year from now and not hearing the whole conversation, and do you think maybe we should add the word "applicable" there in that last line? Any person hired after December 31, 2016, upon separation of employment, will be paid their -- Or any applicable unused leave in a lump-sum payment. I don't want it to be misinterpreted that we're actually changing the policy on how much sick leave you get paid, regardless of how you left, and so just put the word "applicable" in there, maybe.

CHAIRMAN LUCAS: Okay. Mr. Blankenship, since you started with part of a motion, would this reflect your motion?

MR. BLANKENSHIP: Yes, ma'am.

CHAIRMAN LUCAS: All right. Do we have a second? We have a second from Mr. Riechers. **All in favor, please raise your hands.**

EXECUTIVE DIRECTOR GREGORY: Seven.

CHAIRMAN LUCAS: Okay. The other thing that we didn't cover during our allotted time was a discussion of bonuses, and so I will turn that over for you to discuss the staff bonuses, which is Tab G, Number 5 in your briefing book.

REVIEW OF COUNCIL STAFF BONUSES

EXECUTIVE DIRECTOR GREGORY: At the last council meeting, I was asked to provide a summary of bonuses that have been given. The bonus program was implemented by the council in 2010, and so this is the complete history of bonuses. You've got the total amounts for each year and the average per person, the median bonus, the low, and the high.

At the last meeting, the council did approve a proposal that I brought to you to discontinue paying a performance bonus and only have a merit bonus, and so these years include both bonuses combined. One thing that I did, after 2013, which was my first year here, in 2014 and 2015, actually without consulting the council, I made a decision to not pay a performance bonus to any employee who also got a step increase that year, because I personally felt like that was paying for the same thing twice.

Then, the more I tried to deal with the differences between the two bonuses, the more I felt we should just have a single bonus for meritorious work and be done with the performance, because we do have a GS system for handling regular raises, and so we have simplified that and reduced the potential of the total magnitude of bonuses that staff could get.

CHAIRMAN LUCAS: Mr. Riechers.

MR. RIECHERS: I think part of it was the confusion between those two types of bonuses and really not that -- It was difficult to understand the distinction between those two, based on the comments that you made at the last meeting, and that's why we asked for this, as well as to look at what had been given. How many total employees do we now have, Doug? You said almost twenty a while ago.

EXECUTIVE DIRECTOR GREGORY: I think we have nineteen now.

CHAIRMAN LUCAS: All right, and so this was just the review, the table that you were bringing back, because we had asked for it, but do you need anything?

EXECUTIVE DIRECTOR GREGORY: Right, and there is no action needed.

CHAIRMAN LUCAS: Any questions? Mr. Matens.

MR. MATENS: You guys have to forgive me, but, in 2015, seventeen people got a bonus. How many didn't?

EXECUTIVE DIRECTOR GREGORY: My understanding of all of this and the data we compiled, everybody gets some type of bonus in each of these years.

MR. MATENS: So the answer is zero? No one didn't get a bonus?

EXECUTIVE DIRECTOR GREGORY: Correct.

CHAIRMAN LUCAS: Any other questions? All right. Before we move off of the committee report, and that was one of the last things, we did have -- We had a request maybe to revisit our original motion regarding the annual leave and how we would handle that grandfathered leave. Mr. Boyd.

MR. BOYD: Thank you. Just as a little background, Mr. Gregory and I talked extensively yesterday, and we had an agreement, when I was Chairman and when he came in, that in personnel dealings that one of the things that was a tenet of that was to do no harm with the employee and staff, all of the staff, and so we discussed my motion that was approved, and specifically the last portion of it, where annual leave will be used first, will first come out of the grandfathered balance.

Mr. Gregory feels that that is going to do some harm with staff, and so we've talked about it, and I think we have accomplished what we wanted to do by grandfathering what is there and moving to a new program.

What I think that we need to do is recognize that we do have a current situation where the employees feel that there is some entitlement to that money. Some of them have a considerable amount. I asked Mr. Gregory to give me what the top ten people have, and the top ten range from seventy-five weeks of accumulated leave, if you break it down into weeks, and the tenth person has four weeks.

You can see that we've got quite a bit of investment in these people, and they have quite a bit of investment in this current situation. I will ask Mr. Gregory to talk about that a little bit, about what your feelings are about why we would do some harm if we asked them to take it first out of the grandfathered balance, and then I would like to have a little bit of discussion about an idea that I have.

EXECUTIVE DIRECTOR GREGORY: Thank you, Mr. Boyd. In this committee report, I did a scenario of a five-year run-out, if an employee took two weeks of annual leave a year, and some take more than that, but it was mentioned in committee that two weeks is something that would be assumed.

Most of us get six hours a pay period of annual leave to accrue, and so that's 156 hours a year. Since we've got six employees that have over 400 hours of accrued leave already, I used 400 hours as the scenario, and you can see, with it coming out of annual grandfathered leave only in the beginning, the employee, relative to the proposal that I presented, would lose about seven-and-a-half weeks of pay if they were to terminate at the end of that five years.

What you don't see here is I did this same thing running out with ten years, to see what the staff proposal -- Where would that stabilize? What happens after about seven years with the scenario of taking two weeks a year and it coming out of the accrued leave instead of the grandfathered leave is it usually -- It will end up with the maximum that a staff person could have would be whatever we grandfathered in plus 480.

Anything over that goes into sick leave, and so that would be like, from a financial standpoint, the worst-case scenario for the council, the best-case for the employee, and I think most employees probably do take more than two weeks at a time.

The employees we have that have a lot of leave have worked for the council for a long time, and so that's where that came from. It's not that some people are just not taking leave, but they've been here a long time and they have worked for the council for many, many years, and so I think forcing us to take it out of grandfathered leave doesn't accomplish anything, because, financially, we can handle what we have now. We have money in the bank for that.

The 480-hour cap fixes any potential obligations going forward, and it really solves that potential financial liability going forward, and the only thing I can liken it to is like some states do and corporations, but funding a pension plan. We are funding the pension plan 100 percent upfront, which most organizations don't do. That's why I feel comfortable financially with what we've got now, and so I would really appreciate the reconsideration of not requiring leave to be taken out of the grandfathered leave first.

MR. BOYD: With that, I have an idea. We have solved one problem, one issue, that we think we had administratively, and that is to limit the amount of leave that can be accumulated. We have another issue, and I think we do need to recognize that, and that is that this money, this time, this investment, that the employees have has been evidently a part of their planning process for retirement, and we have these ten people who have a large investment in that.

One of the things we could do would be to recognize that that is an issue we need to deal with now, and we have that money accrued already. One suggestion I would have would be that we go ahead and we purchase an annuity with the money that we have for each employee and do away with the grandfathered leave all together, and everybody then, from this point forward, is on the same playing field.

That would be a way to eliminate the grandfathered, and it would be a way to not have to pay that out over a period of time in the future. It would cut costs for the organization, because we wouldn't have additional expenses associated with that in a long-term payout, and it would be, I think, a very fair way to accomplish this grandfathered leave for the future, and so that's one alternative.

I don't think that there is a tax consequence if the organization bought an annuity for someone. There is a tax consequence if we just gave it to them as a lump sum. There is some consequence if we try to put it into their 401K, because there is a maximum, and I can't remember what the max is. I think it's about $50,000 a year.

EXECUTIVE DIRECTOR GREGORY: It's about $50,000, but that's something I was going to look into, and we will have to research the annuity too and come back to the council with costs and options, but we could -- As far as the 401K goes, we could probably put in $25,000 to $30,000 a year and do it over a period of years also. That is something I will look into.

MR. BOYD: That is a suggestion to try to reach what I would call a compromise between Mr. Gregory and myself about what is fair and try to do no harm to the staff, and so I would give that suggestion to the committee for consideration.

CHAIRMAN LUCAS: Ms. Levy.

MS. LEVY: Thank you. One thing is, if you're going to reconsider the motion that you already made and passed in committee, you're going to have to do a motion to reconsider and vote that up and then reconsider it, or you can just leave it until Full Council and present it to Full Council and you can vote it up or down, but I think you sort of have to either do that or reconsider it and then reconsider this whole discussion.

The other thing is, in looking into this annuity idea, I think we would also need to look into the legal requirements of having accrued leave and what you can do with leave that an employee has accrued, and I don't know the answer to that, but I feel like we would need to talk to the Department of Commerce General Counsel about what the options are for changing that dynamic that had been set up and put into place through prior employment practices.

CHAIRMAN LUCAS: Ms. Bosarge.

MS. BOSARGE: Mara, a logistical question. I don't have that motion on the board in front of us, but I think the conversation between Doug and Doug was essentially that the part of the motion that they were reconsidering was that last line, where it says the annual leave used will first come out of the grandfathered balance. When we reconsider, how exactly, logistically, would we go about that?

MS. LEVY: If the committee wants to reconsider this motion, which was to do this action, then someone on the prevailing side needs to make a motion to reconsider this issue that's already been decided. You need to vote as a committee reconsider it, and then you can craft a new motion that does what you want to do.

The other alternative I see is to not talk about this in committee further or try and make new motions about it, but wait until Full Council and vote this motion up or down, presumably down in Full Council, if you don't want to do it, or make substitute motions or whatever you want to do in Full Council.

CHAIRMAN LUCAS: Mr. Boyd.

MR. BOYD: With that counsel, I was on the prevailing side. **I would move to reconsider the motion that is on the board at this time.**

MR. BLANKENSHIP: Second.

CHAIRMAN LUCAS: We have a motion, and we have a second to the motion. **Is there any opposition to the motion? Seeing none, the motion carries.** Do we want to craft a new motion or go with just some discussion? Mr. Riechers.

MR. RIECHERS: I think if you're going to try to -- As we've reconsidered this now, if we end the motion at "converted to sick leave" and then that leaves the question that the two Doug's were discussion for a later date, after we've found out some information about annuities and any other options that there might be and how to handle that. **I would move the same sentence of beginning December 31, 2017, accrued annual leave in excess of 480 hours at the end of each calendar year will be converted to sick leave.**

CHAIRMAN LUCAS: We have a motion. Do we have a second?

MR. BLANKENSHIP: Second.

CHAIRMAN LUCAS: All right. Is there any opposition to the motion?

MS. LEVY: No opposition, but does this then -- We are not going to have another meeting before the end of this year. Before, you were talking about, when you set this up, that you would have two different buckets and what would happen with the different buckets, and so is this going to be enough to tell you what to do for next year, in terms of what leave people are supposed to be taking and what kind of buckets you're supposed to have?

If it is, that's fine, but I just want to make sure that -- At the end of next year, what we're saying is that anything over 480 hours, which you wouldn't accrue in one year anyway, would go into sick leave, but the whole idea was, at the beginning of the year, you're setting up the two buckets. You have the grandfathered bucket and you have the new bucket, and I just don't know if this is going to address what happens.

CHAIRMAN LUCAS: Mr. Riechers.

MR. RIECHERS: Mara, it will not, because, basically, I don't think anyone -- Doug, you may be ready, or one of the Doug's may be ready, but I think there would need to be some research into the annuity notion and how that would play out, maturity dates and other things. I think that would have to be figured out.

I think, at the start of the year, it's going to behave just like it's been behaving, based on this. Is that correct? Whenever we readdress that, we would have to put a time in the future that it would start, whatever that is, or whenever we would do that.

EXECUTIVE DIRECTOR GREGORY: Right. My bucket system would be pretty much automatic anyway. If I was to take three weeks of annual leave in January, some of that is going to have to come out of the grandfathered leave, because I haven't accrued enough during 2017 yet to cover it. It will just be an automatic thing going forward, and so, yes, we can address the bigger picture at a future meeting.

CHAIRMAN LUCAS: All right. Is there any additional discussion or clarification needed? Mr. Blankenship.

MR. BLANKENSHIP: Just to make sure that I understand what's going to take place, at the end of this year, December 31 of 2016, you will have a snapshot of what leave everyone has. Then we'll come back in January or some other point after that and you will have some recommendation or some information about the leave balances that they had at the end of December and if they wanted to convert that to their 401K what the options would be, for somebody that maybe only had two or three or four or five weeks, that would fit under that cap, or what the cost of an annuity would be to the council.

Then you will have some determination on what the property rights are for that leave that they've accumulated, so that we'll have the information that would be needed to make a decision on the grandfathered leave in January or the April meeting or some future meeting.

EXECUTIVE DIRECTOR GREGORY: Correct, and I will get with Ms. Levy and find out who the right person in the Department of Commerce to talk to would be. Historically, I've been dealing with John Gunther, and I don't know if he's the boss or something, but he is difficult to get in touch with at some times, but if there is somebody who really specializes in this, we will find out, and we will look into that, because we don't want to do anything that would expose us to a potential lawsuit either, and so we do need to be careful.

CHAIRMAN LUCAS: All right. Is there any additional discussion? Mr. Swindell.

MR. SWINDELL: I have just one question. Do you have a limit on the amount of leave that is allowed when they continue as an employee for a year?

EXECUTIVE DIRECTOR GREGORY: I didn't hear the last part.

MR. SWINDELL: For a continuing employee that wants to take some leave, can they take off ten weeks?

EXECUTIVE DIRECTOR GREGORY: We don't have a policy on that. That is really the supervisor's and my discretion, collaboratively, to do that. Taking of leave is a privilege. It's not a right, and it's granted based on that it doesn't disrupt our productivity or the workload to any significant amount, and so that's something we would cover on a case-by-case basis.

CHAIRMAN LUCAS: All right. Anything further? Ms. Levy.

MS. LEVY: Sorry. I think we're clear, but it's just that the motion doesn't speak to it, but this motion is not addressing leave that will have accrued during the 2016 calendar year, because what I don't want to have happen in the future is you look at the motion and you're like, okay, it's December 31 and this person has leave in excess of 480 hours and so it's all going to sick leave, and I know that's not what we're talking about, but it doesn't say that, and so my understanding is this addresses leave that you start accruing in 2017.

EXECUTIVE DIRECTOR GREGORY: Correct.

CHAIRMAN LUCAS: All right. We have a motion on the board, and we have a second by Mr. Blankenship. Is there any opposition to the motion on the board, committee? **Seeing none, the motion**

passes.

EXECUTIVE DIRECTOR GREGORY: Thank you very much.

CHAIRMAN LUCAS: I believe this actually covers all the topics in the Administrative and Budget Committee, and we are adjourned.

(Whereupon, the meeting adjourned on October 19, 2016.)

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