

MCAA Position Paper / 2021 Meet and Confer

October 4, 2020

Dear CER Members:

Please accept this letter as the position paper of the Madison City Attorney's Association (MCAA) for the 2021 meet and confer process.

The MCAA presents the following items that are either unresolved or simply remain open. We are including our list of "open" items to preserve our ability to continue meeting and conferring with City HR about the open items.

MCAA items that are open and unresolved at this time:

1. Add vacation for all, per this schedule:

Continuous Service Time	Full-Time Equivalent Annual Work Days of Vacation
After completion of one (1) year	10 15
After completion of three (3) years	12-4/2 17.5
After completion of seven (7) years	15 20
After completion of eleven (11) years	17-4/2 22.5
After completion of fifteen (15) years	20 25
After completion of nineteen (19) years	25 27
After completion of twenty-seven seven <u>five</u> (25)	27 30

The City of Madison lags behind other government employers for starting vacation time. Dane County employees start with between 2-3 weeks, and State of Wisconsin starts all employees with 3 weeks vacation, 9 paid holidays and 4.5 personal days. By comparison, City employees start with 10 vacation days, 8 paid holidays and 3.5 floating holidays.

2. Request no limit on vacation carry over from 2021 to 2022.

Please see our position under item 4 below. The pandemic and other circumstances have increased our workload to the point that many of our members will likely not be able to use up all of their earned vacation in 2021. This is not due to travel restrictions - this is due to workload. We need to know this year whether this will be allowed in 2021, in order to plan our days off, to the extent we can take any.

3. Allow unused vacation to be cashed out annually, similar to AMPS and AMFS.

Fire and police supervisors can convert 2 weeks of unused vacation time to pay each year, and police supervisors can convert 4 floating holidays. Fire supervisors can take comp time pay-out every year. Please see our position under item 4 below as to why something like this is needed for the MCAA.

4. Allow cash out of unused professional time earned during COVID.

The amount of extra, emergency legal work in response to the COVID crisis is unprecedented and cannot go uncompensated. The way that most professional employees have been working during the pandemic is not sustainable – particularly those in administrative service agencies like the City Attorney's Office. Many attorneys in the MCAA have been working consistently 10, 12, 15 hour days and often without a real weekend. In addition to the pandemic, social unrest and election related work has resulted in late hours and high demands on legal services. As attorneys who have sworn an oath, we cannot simply "clock off." As a service agency, our entire job is to serve other City agencies.

This prolonged emergency means that many of our members will:

- *never get to use their earned vacation for this year (or next)*
 - *cannot afford to use the EPL even if they qualify*
 - *cannot make use of the professional time afforded in our handbook*
 - *will never be made whole for this.*
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- *Unlike other agencies, including those where OT is paid, we cannot say "no" or require our customer agencies to hold their request to regular business hours or until we come back from vacation. We cannot just say we are off the clock.*
 - *Some after-hours work is to be expected and is regularly absorbed by the attorneys, as professionals. However, the combined circumstances of the COVID emergency, legal services generated by the movement for Black lives, and the attacks on voting and election procedures, have resulted in a never-before seen need for around the clock legal services.*
 - *Our legal work in response to these crises is **directly supportive of the administration's important policy goals**. Without our legal work, we would have no public health orders, no emergency grants, no "Streatery," no Citizen Oversight Board, the list goes on and on.*
 - *The City Attorney's office is understaffed by one full time, senior attorney. That legal work is being absorbed by Attorneys at a lower pay scale than the person who retired, adding to our workloads that are already stressed due to the pandemic and other circumstances mentioned above.*
 - *The City Attorney's office should be experiencing some salary savings by the retirement of this person and former City Attorney Mike May.*
 - *The City is obligated to find a source of compensation for this work. Unpaid, unusable "professional time" will never make up for the sacrifice and hard work of our members.*
 - *The City cannot continue to operate like this – the City MUST take a stand that recognizes the incredible personal sacrifices of employees who have been working nonstop since this started. We support something like this for all professional staff who need it.*
 - *People will eventually not be able to function and will have long-lasting health problems.*
 - *A pay-out might not make up for those health problems, but might at least provide a cushion for those employees and their families to use as they see fit to make up for this.*

A 1-time payout of professional time earned during the pandemic is the only remaining option for any fairness for what is happening during COVID, with incredibly long hours worked and no end in sight.

*If none of our other requests for cash-out or carry over will be granted, this is the only fair option. There has to be some relief other than saying this is cost-prohibitive and telling us to take time off **when our workload does not allow it**.*

While our supervisor(s) have a history of been willing to approve vacation time, our members will not just abandon our legal obligations and take the month of December off. Or a week in September. Our clients will suffer and we are professionally obligated to defend the City and complete our legal work. Furthermore, due to staffing shortages, there are not back-up attorneys available to craft a vacation schedule that allows all of us to use our earned vacation and professional time. There are simply not enough bodies to do the work, and the work never stops.

Therefore, we are seeking this remedy. A one-time payout for unused 2020 Professional time is affordable and feasible. A pay out of professional time should not create a worrisome precedent, as we hope there will never be another pandemic + unrest + election attacks occurring at the same time.

Open items from our last meet and confer session / discussion not concluded: **We would like to continue to discuss each of these with management, but to comply with the deadline, are listing them here.

5. Increase starting salary for bottom of the Compensation Group 23 pay scale, per comparables.
6. Add steps to the top of the Compensation Group 23 pay scale to encourage retention and reward length of service.
7. Declare Juneteenth a paid City holiday (for all employees) and work with MAC and Equity Teams on specifics, if those groups are interested.

Dane County recently recognized Juneteenth as a paid holiday for all County employees. (See attached resolution and fiscal note.) The City has said this is cost-prohibitive and suggested a much higher cost than Dane County estimated. As we understand it, adding a paid holiday does not add a dollar-for-dollar expense to the operating budget. Refusal to recognize this holiday is hard to square with the City's stated values in racial equity. We are asking for a conversation around adding Juneteenth as a paid holiday for all City employees in 2021, in conversation with MAC and any other interested / relevant community groups.

9. Declare Election Day (primary, general, and local elections) a paid City holiday for all employees.

The current handbook language allow only 3 hours off to vote and requires employee to use existing leave time to vote, and supervisors control when they can take this leave. This seems inconsistent with current values. As with our request for Juneteenth, we disagree with the City that adding this holiday would add a specific increase to the 2021 operating budget. Refusing to discuss this demonstrates a disconnect with the City's stated values of encouraging access to voting. We are requesting a full paid day off on election day or, alternatively, a conversation about revising the current handbook language to be more voter-friendly.

Conclusion: In conclusion, there is always room within an operating budget to prioritize certain expenditures over others. And there is room to find money, whether in 2020 or 2021, and even during unprecedented times. The answers we have received so far suggest the City is *unwilling*, but not *unable*, to consider such requests – whether that be recognizing Juneteenth, boosting pay at the entry level, or providing a 1-time method to compensate for extraordinary service and sacrifice during the time of COVID. We remain hopeful that the City has not turned a corner where it no longer prioritizes the needs of its dedicated public servants.

Requested Remedy: We respectfully ask the CER to:

- find in MCAA's favor on each of our unresolved items
- direct the City to conclude the meet and confer process on our open items in a timely manner, and report back to the CER before the conclusion of the Operating Budget deliberations with the results of those open items.

Modifications to this Letter: Because this letter is due before the date the Mayor's Executive Operating Budget will be released (October 6) we request the opportunity to update our position in this letter, in case the executive budget impacts any of the MCAA-specific requests. We will also update this letter if the MCAA and Labor Relations staff are able to meet and confer and resolve any of these items before the October 8 CER meeting.

Sincerely,



Lara Mainella, MCAA President

CC: Greg Leifer, Emaan Abdel-Halim, Harper Donohue IV