

## Supplemental Compensation for Exempt Employees

**THE ISSUE:** Administrative, professional, and managerial personnel (herein referred to as “overtime exempt employees”) are paid an annual salary to perform services for the City and as such are expected to work the hours reasonably necessary to execute the job for which they were hired. However, from time to time extraordinary demands are placed upon the City’s employees due to extraordinary events including: civil emergencies such as the Student Murders of 1990, severe storms such as the Storm of Century of 1993, natural disasters such as Hurricanes Frances and Jeanne of 2004, and other significant community/system upsets. The City has had a practice of awarding supplemental compensation to affected exempt employees (not including Senior Management) in recognition of the significant additional hours of work, hardship and expense the employee and his/her family must bear in order to respond to the needs of the community as a whole.

In many instances this supplemental compensation would be eligible for reimbursement by the Federal Emergency Management Agency and possibly other sources if the City has adopted a comprehensive policy governing payment to these employees in advance of the catastrophic event. Recent revisions to the federal Fair Labor Standards Act have made the supplemental compensation of overtime exempt employees much more straight forward without jeopardizing their exempt status. Therefore, it is easier now to craft a general policy applicable to future events of this nature and to increase the probability of qualifying for reimbursement.

**BACKGROUND:** Few, if any, communities or utilities are totally self-sufficient when responding to significant catastrophic events. Gainesville is not an exception. A system of mutual aid and inter-dependency has evolved to provide communities and utilities such as ours the resources necessary to promptly restore services and rebuild infrastructure. This system is usually a bi-lateral arrangement that can result in our employees, both exempt and non-exempt, working very long hours away from home and family for the ultimate benefit of our community.

Non-exempt employees can be fairly compensated for their extraordinary hours of work through benefit of law, contract, or City policy. Overtime exempt personnel are most often expected to work an equal if not greater number of hours during such emergencies as non-exempt personnel. Senior management believes that the extraordinary number of hours worked by these employees, whether in Gainesville or assisting other communities or utilities, should be recognized and rewarded. At this time, the City does not have a comprehensive policy or ordinance in place that would allow the award of supplemental compensation to these groups of employees.

As reflected in the examples below: the City has awarded on occasion supplemental compensation to overtime exempt employees. Such awards have been limited in number and have been made only when determined that the granting of Administrative Leave was not a sufficient level of compensation or the granting of such leave would result in an unsound operating situation.

- Hurricane Andrew: Extraordinary hours of work were required of certain utility managers and professionals to repair damage to Homestead's electric distribution system resultant from Hurricane Andrew in 1992. These employees, as well as a large number of overtime eligible employees such as lineworkers, responded to that community's need under the Florida Municipal Electric Association Mutual Aid Agreement. Similar mutual aid was delivered to Dade County by the utility's Water & Wastewater Department. In November of that year the General Manager prepared a Consent Agenda item that recommended "The City Commission authorize the General Manager for Utilities to award special compensation to overtime exempt professional and managerial personnel for participation in disaster and/or emergency relief efforts, when such compensation is reimbursable." The City Commission approved that Consent Item. The City of Homestead (and other public agencies) reimbursed the City for the extraordinary compensation payments made.
- Storm of the Century: Extraordinary hours of work were required of certain utility managers and professionals to repair damage to the City's electric distribution system resultant from the "Storm of the Century" in 1993. The number of extraordinary hours worked by these exempt employees was not nearly as significant as those realized during the Hurricane Andrew restoration effort. Therefore, recognition of the extraordinary effort of these employees was limited to the granting of Administrative Leave as provided in Policy 22.
- Georgia Ice Storm: Extraordinary hours of work were required of certain utility managers and professionals to repair damage to the Georgia Power electric distribution system resultant from the Ice Storm of 2000. These employees, as well as a large number of overtime eligible employees such as lineworkers, responded to that company's need under a mutual aid agreement. Georgia Power reimbursed the City for the extraordinary compensation payments made.
- Hurricane Charley: Extraordinary hours of work were required of certain utility managers and professionals to assist Orlando Utilities Commission and the Kissimmee Utility Authority in repairing the damage to their respective electric distribution systems resultant from Hurricane Charley in 2004. These employees, as well as a large number of overtime eligible employees such as lineworkers, responded to the needs of those communities under the Florida Municipal Electric Association Mutual Aid Agreement. Similar mutual aid was delivered to various cities and counties in the general area by the utility's Water & Wastewater Department. Full reimbursement for the extraordinary compensation payments made is expected from all utilities and communities who received assistance by the City.

**FINDINGS:** Staff contacted a number of Florida cities, counties, and utilities to determine how they address the issue of supplemental (extraordinary) compensation to overtime exempt personnel. Although the methodology and rates of compensation may differ, and formal policies addressing the issue may or may not exist, the overwhelming majority of the agencies contacted did have a mechanism in place to award supplemental compensation to their overtime exempt employees. This finding was found to be

particularly true in the aftermath of the 2004 hurricanes. A summary of these findings can be found in Tables 1&2 (attached).

It was also noted that in some of the organizations polled, personnel equivalent to our frontline managers were compensated substantially in accordance with the terms that governed payment to the overtime eligible employees they managed. This practice serves to avoid wage compression issues which would result between the managers and high overtime craft orientated subordinates. This is a significant problem for a number of the City's operating areas.

**RECOMMENDATION:** The City Commission authorize the City Attorney to prepare and the City Clerk to advertise a City Ordinance based upon a policy drafted by staff that would allow the City to deal with this issue in a comprehensive manner. The proposed policy builds upon the action taken by the City Commission in 1992 and expands the scope to include General Government overtime exempt employees. The proposed policy is conservative in nature and well within the range of practice among the entities surveyed. The proposed policy would provide the greatest benefit to the administrative, professional, and frontline managers who work closest to the overtime eligible employees, thereby mitigating the otherwise likely impact of salary compression (or at times inversion). The proposed policy would authorize the payment of supplemental lump sum compensation to exempt personnel for government declared emergencies that have been deemed eligible for reimbursement from state, federal and/or external sources and for services provided to other agencies when reimbursement is to be provided under mutual aid agreement provisions. The policy would also allow for the potential authorization of one time lump sum payments under other broadly defined catastrophic event circumstances only after prior ratification by the City Commission should such events occur in the future.

**FISCAL IMPACT:** Many of the situations that would give rise to the Determination of an Emergency Condition by a Charter Officer could result in reimbursement of related expenses in total or in part by an outside agency or other entity. In such cases the financial liability may be completely mitigated, partially, or not at all. In general, due to the incorporation of a four hour buffer and substantial dependence on Administrative Leave as a first level compensation tool (when such extraordinary events impact the City) in the proposed policy, the City's financial or "out of pocket" financial outlays would be considerably less generous than the majority of the other entities surveyed. A sample comparison of the staff proposed policy to the policies of other surveyed organizations can be found in Tables 3&4 (attached).

## Survey of Cities/Counties: Payment to Exempt Employees

Table 1

City/County	Payment Method	Formal Policy?
Fort Walton Beach	1.5 x rate (2.0 x rate at the City Manager's discretion)	Yes
Lighthouse Point	1.5 x rate	Yes
Martin County	1.5 x rate	Yes
Polk County	1.5 x rate	Yes
Wilton Manors	1.5 x rate	Yes
Alachua County	1.0 x rate	Yes
Cocoa	1.0 x rate	Yes, adopted after Jeanne
Collier County	1.0 x rate	Yes
Deltona	1.0 x rate	No
Highlands County	1.0 x rate (all hours after 50)	Yes, adopted after Frances
Palm Coast	1.0 x rate	Yes
Seminole County	1.0 x rate	Yes
Seminole County Sheriff	1.0 x rate	No
Clearwater	Time off only	Yes
Maitland	Recognition only	No
Volusia County	Time off only	No

## Survey of Utilities: Payment to Exempt Employees

Table 2

Utility	Payment Method	Formal Policy?
Clay Electric	1.0 x rate	No
JEA	1.0 x rate (1 <sup>st</sup> 5 OT hours) 1.5 x rate (all other hours worked) Comp time can also be granted	Yes
Kissimmee (KUA)	1.5 x rate (VPs time off only)	No
Lakeland	Time off, generally 1.0 x rate (Hurricane Jeanne)	No
Orlando (OUC)	1.0 x rate (2 to 4 hour deductible, waived for storms)	Yes
Tallahassee	Time off which can convert to pay at 1.0 x rate	Yes

**Cities/Counties: Supplementary Compensation Calculation\***

Table 3

<b>City/County</b>	<b>Payment Method</b>	<b>Payment Result</b>
City of Gainesville (proposed)	4 hours waived, 40 hours Admin Leave, 1.5 x rate thereafter	\$1,836
Fort Walton Beach	1.5 x rate (2.0 x rate at City Manager's discretion)	\$4,080 or \$5,440 (maximum)
Lighthouse Point	1.5 x rate	\$4,080
Martin County	1.5 x rate	\$4,080
Polk County	1.5 x rate	\$4,080
Wilton Manors	1.5 x rate	\$4,080
Alachua County	1.0 x rate	\$2,720
Cocoa	1.0 x rate	\$2,720
Collier County	1.0 x rate	\$2,720
Deltona	1.0 x rate	\$2,720
Highlands County	1.0 x rate (all hours after 50)	\$2,380
Palm Coast	1.0 x rate	\$2,720
Seminole County	2.0 x rate	\$5,440
Seminole County Sheriff	1.0 x rate	\$2,720
Clearwater	Time off only	\$0
Maitland	Recognition only	\$0
Volusia County	Time off only	\$0

**Utilities: Supplementary Compensation Calculation\***

Table 4

<b>Utility</b>	<b>Payment</b>	<b>Payment Result</b>
City of Gainesville (proposed)	4 hours waived, 40 hours Admin Leave, 1.5 x rate thereafter	\$1,836
Clay Electric	1.0 x rate	\$2,720
JEA	1.0 x rate (1 <sup>st</sup> 5 OT hours) 1.5 x rate (all other hours worked) Comp time can also be granted	\$3,995
Kissimmee (KUA)	1.5 x rate (VPs time off only)	\$4,080
Lakeland	No pay/time off generally 1.0 x rate (Hurricane Jeanne)	\$2,720
Orlando (OUC)	1.0 x rate (2 to 4 hour deductible, waived for storms)	\$2,720
Tallahassee	Time off which can convert to pay at 1.0 x rate	\$2,720 (max cash comp)

\* **Scenario:** An overtime exempt employee works 80 extraordinary hours during a Declared Emergency. The employee has an equivalent hourly pay rate of \$34.