

**CITY OF SAN ANTONIO
INTERDEPARTMENTAL MEMORANDUM
FIRE DEPARTMENT**

TO: Mayor and City Council

FROM: Fire Chief Robert Ojeda

THROUGH: Terry M. Brechtel, City Manager

COPIES: J. Rolando Bono, Deputy City Manager; File

SUBJECT: Extension of Line of Duty Leave for Firefighter Luis Morales

DATE: April 3, 2003

SUMMARY AND RECOMMENDATIONS

This ordinance would approve an extension of line-of-duty (LOD) leave for Firefighter (FF) Luis Morales, extending his one-year line of duty leave for an August 1998 ankle injury by 564.5 hours (396.5 sick leave hours and 168 annual leave hours) for the period of September 27, 1998 to January 6, 1999.

This request is related to *Luis Morales v. City of San Antonio*, Cause No. 2000-CI-16821.

Staff recommends council approval of an extension for 39.5 hours of the sick leave.

BACKGROUND INFORMATION

On September 23, 1998, FF Luis Morales' ankle was injured during a training exercise. Shortly thereafter, his physician stated that he could return to full duty wearing a small ankle brace inside his boot. The Department made every effort to accommodate FF Morales, including offering to provide specially ordered boots, but FF Morales continued to complain of discomfort and he was placed in a modified, or light duty, position in the Fire Department Services Division.

FF Morales worked the modified duty/light duty assignment for approximately 3 1/2 weeks. He then wrote to Fire Chief Robert Ojeda stating, "As of October 21, 1998, I no longer wish to accept your kind offer of working on LIGHT DUTY. Starting today, I wish to be placed on LINE-OF-DUTY INJURY OR ILLNESS LEAVE." (Emphasis included in original.)

Department policy requires medical documentation, generally in the form of a doctor's letter, to place a firefighter on LOD leave. Although some injuries are obviously related to LOD by the nature of the injury initially, the Department relies on the medical providers for the continuation of LOD leave and a decision on the firefighter's ability and fitness to return to work. FF Morales'

October request for fully paid LOD leave was contrary to his release to full duty work by his physician. There is no indication or reason given by FF Morales or by his physician for the inability to work the assigned modified or light duty. Since there was no medical documentation to support the inability to work, the Department placed FF Morales on his own personal leave rather than LOD leave.

Since that time, the Department has paid FF Morales the maximum one-year of LOD leave allowed by statute for time missed due to the 1998 ankle injury, including significant time for injury-related depression. FF Morales claims that there are additional hours that he missed attributable to the 1998 ankle injury; specifically, 564.5 hours (396.5 sick leave hours and 168 annual leave hours charged to him). Because the Department has paid the maximum one-year under the statute, FF Morales must request an extension to obtain any additional LOD leave hours.

FF Morales has now provided medical documentation to support an extension of 39.5 sick hours. Other than FF Morales' statements that he was not able to work due to the 1998 ankle injury, there is no medical documentation for the remaining hours. FF Morales has filed a lawsuit contending that supporting medical documentation is not necessary for time to be allocated to LOD leave and/or to request an extension of LOD leave.

POLICY ANALYSIS

The Local Government Code §143.073, Line of Duty Illness or Injury Leave of Absence, states that "A municipality shall provide to a fire fighter or police officer a leave of absence for an illness or injury related to the person's line of duty. The leave is with full pay for a period commensurate with the nature of the line of duty illness or injury. If necessary, the leave shall continue for at least one year." The Department relies on medical documentation to assess and validate LOD leave. The Department believes that the medical documentation requirement is a reasonable interpretation of the Local Government Code provisions and is analogous to the medical documentation requirement for claims covered under Worker's Compensation. The documentation requirement has been the written policy of the Department for years and has been consistently applied to all employees.

The Local Government Code further provides that at the end of the one-year period, the municipality's governing body may extend the line of duty illness or injury leave at full or reduced pay. The Department has paid FF Morales one year of LOD leave for the ankle injury. Therefore, approval of this ordinance is solely within the authority of the City Council.

FISCAL IMPACT

Assuming a full pay extension of LOD leave for the entire time requested, conversion of the sick and annual leave hours to LOD leave would result in a cost of \$9,873.11 (based on 564.5 hours and a rate of \$17.49/hour) to the Department. However, the conversion would be done internally by restoring sick and leave hours to FF Morales rather than by a cash payment.