

**INTERDEPARTMENTAL MEMORANDUM**

**FIRE DEPARTMENT**

**TO:** Mayor and City Council

**FROM:** Fire Chief Robert Ojeda

**THROUGH:** Terry M. Brechtel, City Manager

**COPIES:** Christopher J. Brady, Assistant City Manager, File

**SUBJECT:** Extension of Line of Duty Leave for Fire Apparatus Operator Jesse Hernandez, Jr.

**DATE:** November 13, 2003

**SUMMARY AND RECOMMENDATIONS**

This ordinance would approve an extension of Line of Duty (LOD) leave for Fire Apparatus Operator (FAO) Jesse Hernandez, Jr. FAO Hernandez was charged accrued personal leave from March 1, 2003 to August 28, 2003 for an on the job injury initially suffered on October 25, 1996. He has been on leave without pay from August 28, 2003 to present. This ordinance will restore one thousand, four hundred and sixteen (1416) hours, or fifty-nine (59) shifts, of the personal leave he has been charged. This ordinance will also restore three hundred and sixty (360) hours, or fifteen (15) shifts, of time spent on leave without pay, and allow the Department to consider the period as line of duty leave.

Staff recommends approval.

**BACKGROUND INFORMATION**

FAO Jesse Hernandez, Jr., while performing his duties as a paramedic in the Emergency Medical Services Division, was injured lifting a stretcher containing a victim of a gunshot wound on October 25, 1996. He has been on line of duty intermittently from November 14, 1996 until August 19, 1998. Surgery was performed on his back on March 27, 1997. The surgery included removal of two discs, grafting of hip bone to fuse vertebrae, placement of six pins and two metal plates to stabilize the location of injury, and installation of an electrical transmitter to stimulate healing. The electrical transmitter was removed in November 1997.

On November 23, 1999, FAO Hernandez received a line of duty extension (Ordinance No. 90874) covering the period of November 14, 1997 until December 31, 1997 and from July 7,

1998 until August 19, 1998. This ordinance restored 552 hours or twenty-three (23) shifts of personal leave. On September 9, 2001, a second line of duty extension (Ordinance No. 94457) was approved by City Council to cover two periods when FAO Hernandez again used his personal leave. These periods were September 16, 1999 until November 15, 1999 and August 9, 2000 until May 8, 2001 and were related to recovery from surgery that removed one of the metal plates and six pins from Jesse's spine.

FAO Hernandez was returned to full duty on July 24, 2001, and was reassigned to the Firefighting Division as a District Chief's Aide. He has satisfactorily performed these duties for two years.

FAO Hernandez has had to undergo pain management treatment continuously to reduce and control back pain as a result of his injury. He scheduled these procedures during personal leave time to avoid interfering with his job. FAO Hernandez went off personal leave on March 1, 2003, when the pain from the initial injury had increased to the point where he could no longer perform his duties. He remained on personal leave until it was exhausted and he went off payroll on August 28, 2003.

Dr. Donald Bacon has been treating FAO Hernandez since 1999, and on October 9, 2003, he notified the Fire Department that it was his professional opinion that despite spinal fusion surgery and eleven invasive procedures to reduce the pain over the last four years, FAO Hernandez will not be able to return to work.

### **POLICY ANALYSIS**

Approval of this ordinance is only within the authority of the City Council. The Local Government Code, Chapter 143, gives the City Council the authority to grant the extension of line-of-duty leave.

### **FISCAL IMPACT**

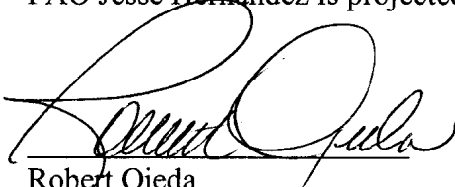
This ordinance will have no fiscal impact on the budget, however, assuming that he would use the restored leave at a future date for another purpose, he would receive payment of \$27,357.12 for 1416 hours, or fifty-nine (59) shifts. This total includes eight hundred seventy-one (871) hours of sick leave, four hundred nine (409) hours of annual leave and one hundred thirty-six (136) hours of holiday leave. This ordinance will also convert three hundred and sixty (360) hours, or fifteen (15) shifts, of time spent on leave without pay to line of duty leave, requiring payment of \$6,786.00 to FAO Hernandez.

**COORDINATION**

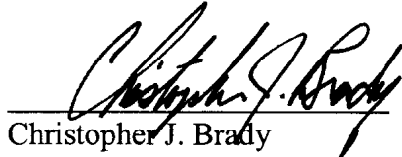
Dr. Jorge Flores of the Occupational Health Clinic of the Health Department conducted a medical evaluation of FAO Jesse Hernandez in October of 2003. It was his opinion that the personal time utilized by FAO Hernandez beginning March 1, 2003 to present was directly related to his original injury of October 25, 1996.

**SUPPLEMENTARY COMMENTS**

FAO Jesse Hernandez is projected to medically retire on December 30, 2003.



Robert Ojeda  
Fire Chief



Christopher J. Brady  
Assistant City Manager

Approved:



Terry M. Brechtel  
City Manager