

ORDINANCE NO. 2014:19

AN ORDINANCE TO AMEND CHAPTER VII OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF NEW MILFORD ENTITLED ADMINISTRATIVE PROCEDURES AND POLICIES TO ADD SECTION 2-44 AUTHORIZING PAYMENT OF COMPENSATORY TIME TO NEW MILFORD PUBLIC WORKS EMPLOYEES

WHEREAS, the New Milford Public Works Employees Benevolent Association (“Union”) is the recognized representative of all New Milford Department of Public Works (“DPW”) employees; and

WHEREAS, the Borough of New Milford and the Union are parties to the Collective Bargaining Agreement Between the Borough of New Milford and the New Milford Public Works Employees Benevolent Association (“CBA”), covering the time period between January 1, 2012 and December 31, 2014; and

WHEREAS, said CBA provides, at ¶X(9), that covered employees are entitled to accumulate a maximum of sixteen (16) hours of compensatory time per year; and

WHEREAS, said CBA provides, at ¶X(10), that covered employees are entitled to request monetary payment for unused vacation time, up to a maximum of five (5) days per year; and

WHEREAS, said CBA provides, at ¶XVIII(B), that covered employees are entitled to extra compensation for unused sick days, up to one-half of their annual allotment, provided they have maintained a “sick bank” of at least fifty (50) days; and

WHEREAS, said CBA provides, at ¶XXXI(6), that covered employees, upon retirement, are entitled to monetary compensation in the form of terminal pay for unused accumulated sick days, holidays, personal days, and vacation days, subject to the limitations set for therein; and

WHEREAS, said CBA provides, at ¶XXXI(6)(A), that monetary compensation for accumulated sick days upon the retirement of a covered employee be capped at \$20,000, or, for covered employees with accumulated sick days valued in excess of \$20,000 as of December 31, 2012, their value as of that date.

WHEREAS, said CBA was duly authorized by resolution of the Borough of New Milford; and

WHEREAS, on or about April 9, 2014, the Acting Comptroller of the State of New Jersey issued a report addressing the payment of compensatory time without the existence of an

ordinance permitting same, and it appearing that the Borough of New Milford has abided by a practice, followed by many other municipalities in the State of New Jersey, wherein compensatory time and other employment benefits have been awarded by way of resolution and collective bargaining agreement, but not by way of Ordinance; and

WHEREAS, it appears that the DPW employees covered under said CBA have potential legal claims against the Borough of New Milford if such compensation and employment benefits are not paid pursuant to the terms of the CBA; and

WHEREAS, it is the position of the Borough of New Milford that, the failure to pay such compensation after previously agreeing to pay it, and after service was provided in anticipation of such payment, would be wholly unfair and inequitable;

The Governing Body of the Borough of New Milford determines the following:

1. The DPW employees covered under said CBA are permitted to accumulate compensatory time, as provided by ¶X(9) of the CBA.

2. The DPW employees covered under said CBA are permitted to receive compensation for unused vacation days, as provided by ¶X(10) of the CBA.

3. The DPW employees covered under said CBA are permitted to receive compensation for unused sick days, as provided by ¶XVIII(B) of the CBA.

4. The DPW employees covered under said CBA, upon retirement, are entitled to terminal pay for unused accumulated sick days, holidays, personal days, and vacation days, as provided by ¶XXXI(6) of the CBA.

5. The compensatory time and compensation for unused sick days, holidays, personal days, and vacation days provided by this Ordinance shall be paid in accordance with the terms of the CBA.

6. Nothing in this Ordinance shall be deemed to create a right to the above-described benefits for future DPW employees.

7. The employment compensation benefits of future DPW employees shall be set through negotiations between the Borough of New Milford and the Union, as memorialized in subsequent collective bargaining agreements.

8. Nothing in this Ordinance should be interpreted as the Borough of New Milford's agreement that the above-described benefits be paid to any other employee.

9. The sole purpose of this Ordinance is to ratify the resolutions and actions of prior governing bodies and resolutions approved by such governing bodies authorizing the execution

of the aforementioned CBA with the Union and the payment of compensation in accordance with the provisions of the CBA in exchange for services rendered, pursuant to the direction provided in the report of the Acting Comptroller of the State of New Jersey.

Introduced: July 28, 2014

Scheduled Adoption: August 25, 2014