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SEP 22 2011



Chandler • Arizona
Where Values Make The Difference

Memorandum

DATE: September 22, 2011

TO: Mayor and City Council

THRU: Rich Dlugas, City Manager *RD*

FROM: Debra Stapleton, Director, Human Resources Division *DAS*

SUBJECT: Resolution 4536 – Amending Personnel Rule 4, Section 5, Pain and Suffering; and Personnel Rule 15, Section 5, Maximum Accrual of Vacation Credits; and Personnel Rule 5, Section 3, Disciplinary and Appeal Procedures; and Personnel Rule 19, Employee Council.

RECOMMENDATION:

Adopt Resolution 4536 – Amending Personnel Rule 4, Section 5, Pain and Suffering; and Personnel Rule 15, Section 5, Maximum Accrual of Vacation Credits; and Personnel Rule 5, Section 3, Disciplinary and Appeal Procedures; and Personnel Rule 19, Employee Council.

BACKGROUND/DISCUSSION:

The proposed changes to the Rules are primarily procedural and housekeeping in nature.

Personnel Rule 4, Section 5. Pain and Suffering Payments for Employees Injured While on Duty

The City provides a pain and suffering payment to employees that incur \$40,000 or more in medical expenses as a result of a work-related injury. The threshold of \$40,000 has not been adjusted since 1999. The most recent negotiations with Police Officers and Sergeants resulted in an agreement to raise this threshold incrementally over the next two years and then adjust the threshold annually based on the increase to the City's lowest tier medical plan. The first increase in the threshold is effective on January 1, 2012. All employees whose injuries precede January 1, 2012 will be grandfathered under the current pain and suffering threshold.

Personnel Rule 15, Section 5: Maximum Accrual of Vacation Benefits:

The proposed change is a procedural change that will streamline the annual processing of use or lose vacation. This change allows for the automation of the vacation carryover and forfeiture process through Oracle which to date has been handled manually by Human Resources.

Personnel Rule 5, Section 3: Disciplinary and Appeal Procedures

The proposed change aligns the City's Personnel Rule with recent changes in the Fair Labor Standards Act (FLSA) concerning disciplinary actions affecting exempt personnel. More specifically, the FLSA expanded the circumstances that would allow for suspension of less than a full workweek. The City desires to maintain consistency with the FLSA.

Personnel Rule 19: Employee Council

The Employee Council recently reviewed the Personnel Rule and proposes clarifying changes that better align the Rule with the goals of the Employee Council and the City's organizational structure and procedures.

PROPOSED MOTION:

Move to adopt Resolution 4536 – Amending Personnel Rule 4, Section 5, Pain and Suffering; and Personnel Rule 15, Section 5, Maximum Accrual of Vacation Credits; and Personnel Rule 5, Section 3, Disciplinary and Appeal Procedures; and Personnel Rule 19, Employee Council.

RESOLUTION NO. 4536

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA AMENDING PERSONNEL RULE 4, SECTION 5, PAIN AND SUFFERING; AND PERSONNEL RULE 15 , SECTION 5, MAXIMUM ACCRUAL OF VACATION CREDITS; AND PERSONNEL RULE 5, SECTION 3, DISCIPLINARY AND APPEAL PROCEDURES; AND PERSONNEL RULE 19, EMPLOYEE COUNCIL; OF THE CITY OF CHANDLER PERSONNEL RULES.

BE IT RESOLVED by the City Council of the City of Chandler, Arizona that the City of Chandler Personnel Rules, are amended to read as follows:

Personnel Rule 4, Section 5. Pain and Suffering Payments for Employees Injured While On Duty

Replace Rule 4, Replace or Add Sections 5A-J:

A. An employee who sustains an injury while performing duties within the scope of employment for the City and who receives workers' compensation benefits for such injury may be entitled to receive additional payments to compensate for pain and suffering.

B. Beginning January 1, 2012, an employee who sustains a work-related injury, unrelated to a previously approved workers' compensation claim with the City, and whose injury results in surgical, medical, and/or hospitalization expenses of \$70,000 or more shall be entitled to receive pain and suffering payments if the employee's surgical, medical, and/or hospitalization expenses meet or exceed the \$70,000 expense threshold. The employee shall be entitled to receive a pain and suffering payment equivalent to one-third of the surgical, medical and/or hospitalization expenses that have been paid by the City on behalf of the employee.

C. Beginning January 1, 2013, an employee who sustains a work-related injury, unrelated to a previously approved workers' compensation claim with the City, and whose injury results in surgical, medical, and/or hospitalization expenses of \$80,000 or more shall be entitled to receive pain and suffering payments if the employee's surgical, medical, and/or hospitalization expenses reach or exceed the \$80,000 expense threshold. The employee shall be entitled to receive a pain and suffering payment equivalent to one-third of the surgical, medical and/or hospitalization expenses that have been paid by the City on behalf of the employee.

D. Beginning January 1, 2014, the City Manager will annually adjust the expense threshold that must be met or exceeded in order for an employee to be eligible to receive pain and suffering payments. The City Manager will adjust the expense threshold every calendar year by a percentage equivalent to the annual overall percentage increase to the City's lowest cost medical plan premium. When the expense threshold applicable to the year in which the injury occurred is met, the employee shall be entitled to receive a pain

and suffering payment equivalent to one-third of the surgical, medical and/or hospitalization expenses that have been paid by the City on behalf of the employee.

E. Employees who are eligible to receive pain and suffering payments prior to January 1, 2014, will not be affected by the City Manager's annual adjustments to the expense threshold.

F. Any employee whose work-related injury was sustained prior to January 1, 2012, and whose injury results in surgical, medical, and/or hospitalization expenses of \$40,000 or more, shall be entitled to receive pain and suffering payments if the employee's surgical, medical, and/or hospitalization expenses meet or exceed the \$40,000 expense threshold. The employee shall be entitled to receive pain and suffering payments equivalent to one-third of the surgical, medical, and/or hospitalization expenses that have been paid by the City on behalf of the employee.

G. The pain and suffering benefits authorized by this Rule shall be reduced by any compromise of a lien against third party causes of action as authorized pursuant to A.R.S. 23-1023(c).

H. Eligibility and payment for pain and suffering payments for workers' compensation cases that are reopened will be calculated and paid on a cumulative basis based on the date of the original claim and corresponding threshold.

I. An employee will not be eligible to receive the payments described in this section if it is determined that the employee engaged in reckless or intentional conduct that contributed to the cause of the employee's injuries.

J. Only probationary and regular employees who are actively employed by the City are eligible to receive pain and suffering payments.

Personnel Rule 5, Section 3: Suspension

Replace Section 3B:

B. Employees of exempt status as defined under the Fair Labor Standards Act may be suspended without pay for periods of less than one week for violations of safety rules of major significance and "serious misconduct", such as violations of workplace rules prohibiting sexual harassment, workplace violence, drug or alcohol abuse, or violations of state or federal laws. Performance or attendance issues are not "misconduct" for which suspensions of less than a full week are authorized under this Rule.

Personnel Rule 15, Section 5.

Replace Section 5B and 5C; Delete 5D.

- B. Any vacation credits in excess of 240 hours, or the equivalent as computed under: (1) the Rule for Fire Department employees assigned to more than a 40-hour week, or (2) the Rule for regular employees who work less than full time but 1040 hours or more per year in a part-time regular budget position, shall automatically be moved to a vacation carryover accrual balance that must be used by June 30th of that same year. Any vacation carryover not used by June 30th, will be forfeited.

- C. Employees that elect to forfeit vacation credits in excess of 240 hours or the equivalent as computed under: (1) the Rule for Fire Department employees assigned to more than a 40-hour week, or (2) the Rule for regular employees who work less than full time but 1040 hours or more per year in a part-time regular budgeted position, in lieu of having the hours moved to vacation carryover balance that must be used by June 30th of that same year, shall notify the Human Resources Director in writing of their request.

Personnel Rule 19, Employee Council

Replace all Sections of Rule 19:

01- Name

The name of the council shall be the City of Chandler Employee Council.

02- Purpose

- A. The purpose of the Employee Council is to provide a forum to address mutual concerns, problems, or ideas which may include discussion of the implementation of programs affecting classified employees that reside in a job class below the mid-manager level, and who are not otherwise covered by a designated employee organization through a Meet and Confer agreement.

The Employee Council shall support the City's mission by:

- 1. Fostering positive, open communication and cooperation between City Management and employees.
- 2. Working together with City Management and employees to improve the services provided to all customers, internal and external.
- 3. Making recommendations on Personnel Rules, policies, and procedures.

4. Addressing mutual concerns among departments in the City.
 5. Participating in Citywide committees and/or Citywide focus groups that may recommend changes that may impact represented employees.
- B. Employee Council representatives shall endeavor to be fully informed as to the opinions, views, and problems of the employees in their departments. They shall work toward the improvement of conditions not only in their departments, but also throughout the City.

03- Representation

- A. Classified employees that reside in a job class below mid-manager level, and who are not otherwise represented by a designated employee organization through a negotiated Meet and Confer agreement, are considered qualified and eligible to submit their concerns and ideas to any Employee Council representative for discussion with the City of Chandler Employee Council.
- B. The Employee Council will represent all City department employees as indicated in Section 3A. For representation purposes, the departments of the City Clerk, City Magistrate, Law, Communications and Public Affairs, and City Manager shall be combined and will be considered as one department referred to as General Government; the Fire and Police Departments shall be combined and will be considered as one department referred to as Public Safety. Representation from each department will be based on the following schedule of eligible employees:

Up to 50 eligible employees	2 representatives
51 to 100 eligible employees	3 representatives
More than 100 eligible employees	4 representatives

04- Eligibility and Terms

- A. Any full-time regular employee that is eligible for representation as outlined in Section 3A of this rule is eligible to hold the position of employee representative and may participate in the election of the representative.
- B. The term of office for representatives shall be two years. The term will begin July 1 and end June 30 of the second year. Representatives may serve additional terms.
- C. Terms of office shall be staggered so that approximately 50% of the Employee Council representatives are elected each year.
- D. When an Employee Council representative is promoted to a position which would cause the loss of eligibility, resigns from the Employee Council, or leaves City employment, an election will be held to fill the vacancy for the remainder of the representative's term. Term vacancies shall be filled in a timely manner.

05- Elections

- A. The Human Resources Director or designee shall provide election procedures and administer elections. The Employee Council shall provide assistance as necessary. All elections shall be by secret ballot and shall require a majority of those voting to be elected.
- B. Elections shall be held annually and shall be accomplished in a timely manner.
- C. Preliminary Election – A preliminary election is held to determine which employees from each department shall be nominated for placement on the final ballot. Employees shall be selected by popular vote. The two employees receiving the most votes from the department shall be placed on the final ballot.
 - 1. In the event of a tie, three or more persons may be placed on the final ballot.
- D. Final Election – The nominations are determined during the preliminary election. For each position, the candidate receiving the majority of votes shall be elected.
- E. If no two people receive a majority of the votes, a second election shall be held.
- F. To fulfill the requirements of Section 4, Eligibility and Terms, the Recording Secretary shall administer elections in accordance with the provisions contained herein. All elections shall be decided by a simple majority of those voting.

06- President and Vice-President of Employee Council

- A. The office of President of the City of Chandler Employee Council shall be filled every two years by majority vote of the elected representatives present at the first meeting following the election. The President shall conduct meetings and discussions, and shall have full voting rights.
- B. If the President leaves City employment, resigns from the Employee Council or is promoted to a position where eligibility is lost, or is removed pursuant to Section 11, the Vice-President shall assume the President's position and a new Vice-President shall be elected.
- C. The Vice-President shall be elected in the same manner as the President. The Vice-President shall chair Employee Council meetings in the absence of the President.

07- Duties and Responsibilities of Employee Council Members

- A. To attend Employee Council meetings.
- B. To solicit feedback from represented employees on relevant issues.
- C. To bring employee concerns forward to the Employee Council for consideration.

- D. To provide timely communication to represented employees regarding topics discussed at Employee Council meetings.
- E. To serve on Employee Council committees.
- F. To promote and ensure that the Employee Council's purpose is met.

08- City Time for Employee Council Duties

- A. Employee Council members shall be allowed to attend meetings on City time.
- B. Employee Council members shall be allowed to attend to other Employee Council duties on City time but only after requesting and receiving permission from their immediate supervisors. Reasonable requests shall be granted, but in no case shall the request unreasonably interfere with an employee's assigned work.
- C. Employees shall be granted compensatory time, if eligible, or follow the normal practices of their department when they are required to perform Employee Council duties during times outside of their normal shift.

09- Recording Secretary of the Employee Council

- A. The Human Resources Director shall provide a Recording Secretary of the Council who shall:
 - 1. Maintain a complete file of all documents belonging to the City of Chandler Employee Council.
 - 2. In cooperation with the President and Human Resources Director, prepare the agenda and give notice of meetings.
 - 3. Attend meetings and take and publish minutes.
 - 4. Prepare correspondence as needed.
 - 5. Keep copies of all materials pertaining to the Employee Council meetings.
- B. The Recording Secretary will not be required to take minutes of Committee meetings.
- C. The Recording Secretary is not empowered to vote.

10- Management Liaison to the Employee Council

- A. The City Manager shall designate the Human Resources Director or another member of the management team to serve as liaison to the Employee Council. The liaison shall:
1. Support open communication between City Management and Employee Council.
 2. Assist the Employee Council in researching issues of concern to represented employees that are not otherwise being researched by a committee of the Employee Council.
- B. The Management Liaison is not empowered to vote.

11- Removal from Employee Council

- A. An individual may be removed by a two-thirds vote of the full voting Council for failing to uphold Section 7, Duties and Responsibilities of Employee Council Members.
- B. Cause for automatic removal from Employee Council
1. Promotion to an ineligible position.
 2. Transfer outside the department/division represented.
 3. Termination of employment.
 4. Resignation.
 5. Gains representation by a designated employee organization as stated in the City's Meet and Confer Ordinance.
- C. A member who is President of the Employee Council and who is transferred outside the department represented may continue to serve on the Council until expiration of the term to which elected, with the consent of the majority of the Employee Council.

12- Recall of Representatives

A recall election will be administered under the procedures outlined in Section 5 herein upon petition of at least 20% of the eligible represented employees. A special election shall be held, administered by the Recording Secretary, to determine whether an Employee Council representative shall be retained in office.

13- Meetings

- A. A minimum of four regular meetings (one per quarter) of the Employee Council shall be held each year. A majority of Employee Council members must be present to constitute a

quorum for business. All items of business may be passed with a majority vote of those present. Members must be physically present to cast a vote.

- B. Other than the required meetings, meetings may be held as necessary. The President or a majority of the Employee Council members may call a meeting by notifying the Recording Secretary of the date and purpose of the meeting. A meeting may also be called upon advice of the Management Liaison. The Recording Secretary shall inform the City Manager of all meetings.
- C. The Employee Council may discuss problems in any department with the objective of making recommendations for changes in the City Personnel Rules.
- D. When not in conflict with existing Council rules, Robert's Rules of Order shall be followed to conduct meetings.

14- Employee Council Recommendations

- A. Prior to the City putting into effect any new Personnel Rules or amendments thereto, the Employee Council shall receive a redlined copy of all proposed changes, and meet to discuss, review, and comment on said changes. After the meeting, the Employee Council may forward a written recommendation to City Management outlining any concerns.
- B. Upon a majority vote of the Employee Council, other matters of interest to the Council will be sent to the City Manager or his designee.

PASSED AND ADOPTED BY THE City Council of the City of Chandler, Arizona, this ____ day of September, 2011.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4536 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the ____ day of September, 2011, and that a quorum was present thereat.

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

