

Staff Summary Report



Council Meeting Date: 02/21/08

Agenda Item Number: _____

SUBJECT: Resolution amending the Tempe Personnel Rules and Regulations, Rule 4, Section 404, by adding a new subsection C relating to severance agreements.

DOCUMENT NAME: 20080221casv01 **PERSONNEL RULES AND REGULATIONS (0301-01)**
Resolution No. 2008.16

SUPPORTING DOCS: No

COMMENTS: This resolution amends the Tempe Personnel Rules and Regulations, Rule 4, Section 404, by adding a new subsection C relating to severance agreements, granting the Manager the authority to execute severance agreements with employees for up to a six (6) month period, requiring a release and waiver of liability in favor of the city in all such agreements, and requiring any severance agreements in excess of six (6) months be approved by the City Council.

PREPARED BY: Charlie Meyer, City Manager (350-8575)

REVIEWED BY: Tempe Merit System Board on February 6, 2008, pursuant to Tempe City Charter Sec. 4.02(c).

LEGAL REVIEW BY: Andrew B. Ching, City Attorney (350-8575)

FISCAL NOTE: N/A

RECOMMENDATION: Recommend adoption of Resolution No. 2008.16

ADDITIONAL INFO: This Resolution, in conjunction with Ordinance 2008.06 (on the February 21, 2008 agenda for second hearing and adoption), brings the subject of severance agreements in harmony with the dictates of the City Charter and the direction of the Council at the January 10, 2008 Issue Review Session. Ordinance 2008.06 amends Section 2-19 of the Tempe City Code by deleting subsection (b) relating to the authority of the City Manager to enter into severance agreements with employees. This Resolution amends the Tempe Personnel Rules and Regulations by adding the substance of Section 2-19 along with the limitation that all severance agreements must contain a release and waiver of all claims in favor of the City. This change is warranted because the Tempe City Charter, Section 2.05(b) specifies that the Council shall not in any way dictate the appointment or removal of any city administrative officers whom the manager or any of his subordinate are empowered to appoint. The exception to this is Charter Section 4.02(d), which permits the Council to approve the City Personnel Rules, including policies and procedures regulating reduction in force and removal of employees. The negotiation of severance agreements is a part of "removal of employees", and thus deleting the Code provision and adopting this amendment to the Personnel Rules is the appropriate means to implement Council's direction from the January 10, 2008 Issue Review Session.

RESOLUTION NO. 2008.16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING THE CITY'S PERSONNEL RULES AND REGULATIONS RELATING TO SEVERANCE AGREEMENTS BY ADDING SUBSECTION 404(C).

WHEREAS, The Tempe City Council has the authority to amend the City of Tempe Personnel Rules and Regulations in accordance with Section 4.02(d) of the City Charter; and

WHEREAS, it is in the best interest of the City to amend the City of Tempe Personnel Rules and Regulations;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

That Rule 4, Section 404, be amended as indicated in the attached Exhibit.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this ____ day of _____, 2008.

MAYOR

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT (Note: New information is in ALL CAPS.)

Rule 4, Section 404:

Section 404: Resignation/Retirement; SEVERANCE

A. Resignation

Employees resigning from the City shall submit a written resignation notice to their supervisor at least ten (10) working days prior to separation.

The Department Manager forwards resignation notices to Human Resources.

Failure of employees to comply with this section may be cause for denial of future employment with the City.

Resigned employees may withdraw their resignation prior to the termination date with approval of the Department Manager.

At the discretion of the Department Manager, an unauthorized leave of absence may be considered a resignation.

B. Retirement

Employees retiring from the City must be in good standing and have been eligible to receive benefits from one of the City's sponsored state retirement plans.

The maximum retirement age is 65 for members of the Public Safety Personnel Retirement Plan. There is no maximum retirement age for members of the Arizona State Retirement System.

Employees retiring from the City must submit written notification to their supervisor at least 30 days prior to the retirement date. The notification is forwarded to Human Resources immediately.

C. SEVERANCE AGREEMENTS

THE CITY MANAGER MAY, IN HIS OR HER SOLE DISCRETION, NEGOTIATE AND EXECUTE SEVERANCE AGREEMENTS WITH CITY EMPLOYEES FOR AN AMOUNT NOT TO EXCEED THE EMPLOYEE'S TOTAL SALARY FOR A SIX (6) MONTH PERIOD. ANY SUCH AGREEMENT SHALL CONTAIN, AT A MINIMUM, A FULL RELEASE OF LIABILITY AND WAIVER OF ALL CLAIMS BY THE EMPLOYEE IN FAVOR OF THE CITY. TO THE EXTENT PERMITTED BY THE CITY CHARTER, ANY NEGOTIATED SEVERANCE AGREEMENT WHICH EXCEEDS SIX (6) MONTHS TOTAL SALARY SHALL REQUIRE APPROVAL BY THE CITY COUNCIL.