City of FRESNO **REPORT TO THE CITY COUNCIL**

AGENDA ITEM NO. 9:30am #2 c
COUNCIL MEETING 4/22/2010
APPROVED BY
DEPARTMENT DIRECTOR
CITY MANAGER

April 22, 2010

FROM: TERRY A. BOND, Director
Personnel Services Department

BY: JUANITA CHAVEZ, Assistant Director
Personnel Services Department

SUBJECT: INTRODUCE AMENDMENTS TO SECTIONS 3-221, 3-226, 3-252, 3-255 AND 3-268 AND REPEALING SECTION 3-234 OF THE FRESNO MUNICIPAL CODE RELATING TO EMPLOYMENT PROCESSES

RECOMMENDATION

Amendments to Fresno Municipal Code (FMC) Sections 3-221, 3-226, 3-234, 3-252, 3-255, and 3-268 are recommended to streamline and expedite various processes for the recruitment and selection of candidates for City employment.

EXECUTIVE SUMMARY

The proposed changes modify several existing ordinances of the Fresno Municipal Code related to the recruitment and selection process of City of Fresno employees. The specific modifications 1) redefine protected classifications as those so defined by state or federal law, 2) designate the timing for proof of Selective Service registration from the application period to the period immediately before employment and prohibits employment without required documentation, 3) provide greater flexibility in the determination of suspension of competition for certification lists, 4) afford greater flexibility in the number of candidates for hiring consideration, and 5) streamline the recruitment and exam process to permit appointing authorities more options regarding certification lists. The recommended changes affecting represented employees were reviewed by bargaining units, and the meet and confer process has been concluded.

BACKGROUND

Review of Chapter 3 of the FMC determined the need for streamlining, modifying and amending processes in the recruitment and selection of City employees which unnecessarily delay and limit departments in the efficient filling of vacant positions. The proposed changes to the Fresno Municipal Code (See Exhibit "A" to Proposed Resolution) are as follows:

(1) **Modify Section 3-221- Freedom from Discrimination.**
Modifies anti-discrimination Section 3-221 by substituting "any classification protected by state or federal law" for a specific list of protected classifications. This allows for state and federal changes in such classifications to occur without the need to further amend the FMC.

(2) **Modify Section 3-226 - Registration for Selective Service.**
Modifies language specific to applicants required to register with the Federal Selective Service System. Submittal of documentation verifying registration is delayed from the time of application to the time prior to actual employment. This is an efficiency measure designed to reduce notice and attendant delays when applicants submit applications for employment missing this documentation. Language is added requiring this documentation for employment when applicable.

(3) Delete Section 3-234 – Disqualification.
Removes from the Code disqualification of competitors in examinations for making identification marks on answer sheets or booklets. This can be managed administratively and adjusted for the format of an examination. The Director has the ability to disqualify without the need for an ordinance.

(4) Modify Section 3-252- Certification and Appointment of Eligibles.
Significant changes are made to Section 3-252 designed to expedite the certification of eligibles and to establish three levels of certification with the level to be selected by the Appointing Authority: 1) department certification limiting selection to employees of a certain City department, 2) general certification limiting selection to all City employees and 3) open certification allowing selection without limitation. The section is also clarified to apply to permanent positions and is modified to avoid duplicate recruitments, allow greater flexibility in promulgating eligibility lists and fill vacancies promptly. The change expands the "Rule of Seven" to a "Rule of Ten" when certifying eligibles and deletes Sections 3-252 (a)6 which is made obsolete by the new selection criteria, and (f) related to underrepresented groups.

Selection and filling of vacancies in the classifications of Bus Driver and Waste Collector Leadworker is essentially continuous. A subsection is added to address the operational needs for recruitments for these positions. This new subsection clarifies that the "Rule of the List" applies when hiring Waste Collector Leadworkers and Bus Drivers. Whenever a vacancy exists, the appointing authority may select and appoint from a list without regard to a candidate's relative standing on the list. As the initial list is exhausted additional names may be added in a streamlined manner.

(5) Modify Section 3-255 - Re-Employment.
New title; modifies language to limit re-employment opportunity to those providing proper written notice to the appointing authority and having a satisfactory performance record in their last position held. The section was formally titled "Waiver of Competitive Examination".

(6) Amend Section 3-268 - Suspension of Competition.
Section 3-268 is amended to allow greater flexibility in the selection of eligibles by an appointing authority in cases where there are few eligibles or for positions requiring expert services of a technical, scientific or exceptional nature.

FISCAL IMPACT
The fiscal impact is unknown at this time but will generate greater efficiencies in the area of recruitment and selection.

Attachments: Proposed Ordinances

April 19, 2010

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA AMENDING SECTIONS 3-221, 3-226, 3-252, 3-255, AND 3-268 AND REPEALING SECTION 3-234, OF THE FRESNO MUNICIPAL CODE RELATING TO EMPLOYMENT.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 3-221 of the Fresno Municipal Code is amended to read:

SECTION 3-221. FREEDOM FROM DISCRIMINATION. No question in any form or application, or in any examination, shall be so framed as to elicit any information concerning the political or religious opinions or affiliations of any applicant, nor shall any inquiry be made concerning such opinions or affiliations, and all disclosures thereof shall be discountenanced. No discrimination shall be exercised, threatened or promised by any person in the employ of the city against or in favor of any applicant, eligible or employee because of [any classification protected by state or federal law] ~~his race, religion, political opinions or affiliations~~.

SECTION 2. Section 3-226 of the Fresno Municipal Code is amended to read:

SECTION 3-226. REGISTRATION FOR SELECTIVE SERVICE. Any individual who is required to register with the Federal Selective Service System shall submit documentation evidencing such registration ~~when seeking employment~~ [at time of employment] with the City of Fresno. Employment with the City of Fresno shall be prohibited until such time as required documentation is submitted.

SECTION 3. Section 3-234 of the Fresno Municipal Code is repealed.

SECTION 4. Section 3-252 of the Fresno Municipal Code is amended to read:

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SECTION 3-252. CERTIFICATION AND APPOINTMENT OF ELIGIBLES.

(a) Upon receipt of a requisition for certification to fill a permanent, permanent ~~part-time, or permanent-intermittent~~ position, the Director shall certify eligibles in the following manner and order:

(1) The name of the person standing highest on the reinstatement list for the class shall be certified first. If the requisition requests certification for more than one vacancy in the same class, the Director shall certify from those highest on the reinstatement list for the class up to as many names as there are vacancies.

(2) For [all] classes [where the minimum qualifications mandate current City service, the names of the ten persons standing highest (five persons standing highest for those classes mentioned in Section 3-268 (b).] ~~in the Police Management Unit, the names of the five persons standing highest on the eligible list or, if the position is promotional, the names of the five persons standing highest~~ on the promotional eligible list shall be certified, if there is no reinstatement list. The first vacancy shall be filled by the appointment of one of the [respective] ~~five~~ highest eligibles certified. The second and each succeeding vacancy shall be filled by appointment from the [respective] ~~five~~ highest then-remaining names. [Five]~~Three~~ names [(three names for classes mentioned in Section 3-268 (b)] shall be considered the minimum necessary to comprise a basic certification.

(3) For all units, groups, or classes not specifically listed in (2) above, ~~the names of the seven persons standing highest on the eligible list, or if the position is promotional, the names of the seven persons standing highest on the promotional eligible list shall be certified, if there~~

~~is no reinstatement list. The first vacancy shall be filled by the appointment of one of the seven highest eligibles certified. The second and each succeeding vacancy shall be filled by appointment from the seven highest then-remaining names. Three names shall be considered the minimum necessary to comprise a basic certification.~~ [an eligible list shall be established. The appointing authority, at time of requisition, shall identify the composition of the certification using the following options:

(i) A department certification shall be composed of the ten highest-ranking employees working within the requested department.

(ii) A general certification shall be composed of the ten highest-ranking permanent City employees.

(iii) An open certification shall be composed of the ten highest-ranking persons on the eligible list, without regard to City employment.

If there are fewer than ten eligibles meeting the criteria for a department certification, it shall be completed with a general certification followed by an open certification until the appropriate number of eligibles have been certified or a general certification shall be completed with an open certification.

The second and each succeeding vacancy on the same requisition shall be filled by appointment from the ten highest then-remaining names. Five names shall be considered the minimum necessary to comprise a basic certification.]

(4) When there are fewer than [the required number of] ~~three~~ names on an eligible or a promotional eligible list and certification is

requested pursuant to either (2) or (3) above, the Director shall certify the number thereon, ~~subject to the limitations of subparagraph (6) of this subsection,~~ and the Appointing Authority may, at his/her option, accept such certification and appoint therefrom, or decline such certification and defer permanent appointment pending the creation of a new list.

(5) When there is neither a reinstatement nor an eligible list for the class, certification from the list authorized pursuant to Section 3-254 of this Code shall be made in the order and manner as if such list were for the class.

~~(6) Whenever there are both an eligible and a promotional eligible list for the same class, certifications shall be made first from the promotional eligible list; provided, that if there are fewer than the applicable number of names on such promotional eligible list, the Director shall certify, in addition to such names a sufficient number of names from such eligible list to complete the number required; and provided that when the certification is for appointment to more than one vacancy, those certified from the promotional eligible list shall be deemed of higher standing than any eligibles certified from the eligible list, regardless of examination scores.~~

(b) The names of eligibles who are certified but not appointed shall remain in their relative positions on the list from which they were certified provided such list or the eligible's right to remain thereon has not expired pursuant to other provisions of this article.

(c) When a new eligible or a new promotional eligible list is created, the names of all persons on any existing list which such new list supersedes shall be certified for appointment, pursuant to subsection (a) hereof, before any

certifications are made from the new list provided that when the older list contains the names of fewer than the maximum number of names that can be certified, the name or names remaining on such older list shall be placed at the head of the new list and shall be included in all certifications of persons from the new list until appointed, removed from such list pursuant to this article, or their eligibility for consideration has expired.

(d) When the requisition requests certification to fill a limited position pursuant to Section 3-256 of this Code, certification shall be made in the same order and manner as provided in this section for permanent positions.

(e) The appointing authority shall be permitted to examine the application, examination and personnel records of each eligible certified for appointment.

~~(f) Certification and appointment for the following positions may be made without regard to relative standing on an eligible list promulgated for the City's specific and sole use when the City Manager has determined that females and members of racial and ethnic minorities are underrepresented in that classification:~~

~~(1) Entry-level classes, as determined by the Director, in the Non-Supervisory Blue Collar Unit;~~

~~(2) Entry-level classes, as determined by the Director, in the Non-Supervisory White Collar Unit;~~

~~(3) Entry-level classes, as determined by the Director, in the Management and Confidential Group;~~

~~(4) Firefighter.~~

(f) A permanent intermittent employee may be appointed without further examination to a vacant permanent position in the same class.

[(g)] ~~(i)~~ Persons eligible for referral pursuant to Section 3-255 [RE-EMPLOYMENT} ~~WAIVER OF COMPETITIVE EXAMINATION~~ shall be referred in addition to the number of names eligible for referral under this section.

[(h) Certification and appointment to positions in the Waste Collector Leadworker and Bus Driver classes shall be made from an eligible list established for the class of Waste Collector Leadworker and Bus Driver respectively. Whenever a vacancy exists in one or more positions in the Waste Collector Leadworker and Bus Driver classes, the appointing authority may select and request certification for appointment of the names of one or more eligibles on such list, without regard to their relative standing on the list. As the initial list is exhausted, additional names will be certified in the same manner as described in this subsection. This subsection shall not be deemed to preclude the filling of a Waste Collector Leadworker and Bus Driver vacancy by transfer thereto of an employee who has qualified for such transfer under section 3-261.

Subsections (f), (g), (h), and (i) shall be renumbered to reflect the deletion of Subsection (f)]

SECTION 5. Section 3-255 of the Fresno Municipal Code is amended to read:

SECTION 3-255. [RE-EMPLOYMENT] ~~WAIVER OF COMPETITIVE EXAMINATION~~ A person who achieves permanent status and who voluntarily resigns from city service [with proper notice pursuant to Section 3-115 and who had] ~~with~~ a satisfactory performance record in the last position held may request consideration, without further competitive examination, for appointment to a vacant position in the class in which permanent status was last held or in a lower class in the same series. Such request shall be made in writing to the Director. Consideration for appointment shall be limited to the twenty-four months following the effective date of resignation. When an eligible list is in effect, referral of such person to an appointing authority shall be made in

addition to the names certified from an eligible list. Referral may also be made in the absence of an eligibility list. After four referrals hereunder, a person shall no longer be eligible for consideration for appointment. Any person selected for appointment pursuant to this section shall be subject to the same conditions of probation and benefits applicable under the provisions of this article to an employee appointed to the class from an eligible list. There shall be no right of appeal regarding denial of consideration or appointment.

SECTION 6. Section 3-268 of the Fresno Municipal Code is amended to read:

SECTION 3-268. SUSPENSION OF COMPETITION

~~(a) For classes in the Police Management Unit:~~

~~(1)~~ [(a)] Where a vacancy exists in a position which requires the person employed therein to render professional, scientific, technical or expert services of a peculiar or exceptional character, the Director may, if satisfied that the position can best be filled by the selection of some designated person of recognized attainments, authorize appointment to be made to such position by the appointing authority without the creation of an eligible list by competitive examination.

~~(2) When the number of applications received from qualified applicants is equal to or less than the number of eligibles who would be certified under the "Rule of Five," all qualified candidates shall be directly referred to the appointing authority with equal standing for hiring consideration. Qualified candidates shall be placed upon the eligible list based upon alphabetical order of last name.~~

(b) [For the classes of Police Sergeant, Police Lieutenant, Police Captain, Deputy Police Chief, Firefighter Specialist, Fire Captain, Fire Battalion Chief, and Fire Deputy Chief, and]

~~(b)~~ [(c)] For all units, groups, or classes not specifically listed in ~~(a)~~ [(b)] above: [When the number of applications received from qualified applicants exceeds the "Rule of" by five or less, the Director may suspend competition, thereby providing all qualified candidates directly to the appointing authority with equal standing for hiring consideration. Qualified candidates shall be placed upon the eligible list in alphabetical order by last name.]

SECTION 7. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its passage.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2010.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2010
Mayor Approval/No Return: _____, 2010
Mayor Veto: _____, 2010
Council Override Vote: _____, 2010

REBECCA E. KLISCH
City Clerk

BY:_____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: Tommi R. Saghatelian
Tommi R. Saghatelian
Deputy

City of FRESNO **REPORT TO THE CITY COUNCIL**

AGENDA ITEM NO. 9:30a.m. #2 C
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DEPARTMENT DIRECTOR
CITY MANAGER

April 22, 2010

FROM: TERRY A. BOND, Director
Personnel Services Department

BY: JUANITA CHAVEZ, Assistant Director
Personnel Services Department

SUBJECT: INTRODUCE AMENDMENT TO SECTION 3-277 OF THE FRESNO MUNICIPAL CODE RELATING TO NON-REPRESENTED, UNCLASSIFIED EMPLOYEES

RECOMMENDATION
Amendment to Fresno Municipal Code (FMC) Section 3-277 is recommended to allow the City to efficiently manage non-represented, unclassified personnel within fiscal constraints of the current economic times.

EXECUTIVE SUMMARY
The proposed changes deletes certain sections from outdated unclassified rights and limits bumping rights to represented unclassified employees. Non-represented, unclassified employees will no longer have bumping rights in the event of a layoff.

BACKGROUND
Review of Chapter 3 of the FMC determined the need for change was deemed necessary to allow more efficient personnel management to unclassified, non-represented employees. The proposed changes to the Fresno Municipal Code (See Exhibit "A" to Proposed Resolution) are as follows:

(1) Amend Section 3-277 – Appointment to a Position in the Unclassified Service
Section 3-277 is amended to allow only represented employees bumping rights under 3-291. Non-represented, unclassified employees will no longer have any rights under 3-291 (bumping) in the event of a reduction in force. Amendments allow greater flexibility to the appointing authorities to structure departments and staffing as deemed necessary. The amendments also delete outdated sections and include changes that are housekeeping in nature.

FISCAL IMPACT
The fiscal impact is unknown at this time but will generate greater efficiencies in the management of personnel.

Attachments: Proposed Ordinance

April 19, 2010

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA AMENDING SECTION 3-277 OF THE FRESNO MUNICIPAL CODE RELATING TO EMPLOYMENT.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 3-277 of the Fresno Municipal Code is amended to read:

SECTION 3-277. ~~APPOINTMENT TO A POSITION~~ [EMPLOYEES] IN THE UNCLASSIFIED SERVICE

~~(a) Any employee who has achieved permanent status in the city service prior to holding a position in a class which was placed into the Unclassified Service by the 1981 amendment to Fresno Charter Section 1000, may, at any time prior to October 1, 1981, resign such position in the unclassified service and be reinstated to a position in the classified service previously held by the employee.~~

~~(b) An employee who achieved permanent status in a position in a class which was placed in the unclassified service by the 1981 amendment to Fresno Charter Section 1000, and who had not achieved permanent status in any other previously held class, may, at any time prior to October 1, 1981, resign such position and be transferred to a vacant position in a lower class in the classified service for which the employee meets the minimum qualifications. For the purpose of this section, the term "lower class" shall be as defined in Section 3-261 (c) of this Code. Such transfer shall be subject to the approval of the appointing authority who is responsible for the position to which transfer is sought and the employee passing a noncompetitive qualifying examination for the class to which transfer is proposed.~~

~~(c)~~ [(a)] Any employee who has achieved permanent status in the city service and is thereafter appointed to a position in the unclassified service, may,

at any time within six months of appointment to said position in the unclassified service, resign such position and be reinstated to a position in the classified service previously held by the employee.

~~(d)~~ [(b)] In the event an employee in the unclassified service elects to exercise the option provided under subsection (a) ~~or (c)~~ of this section and is reinstated to a position in the unclassified service, the provisions of Section 3-291(b) shall be applied in order to accommodate such reinstatement.

~~(e)~~ [(c)] In the event of a general reduction in force or layoff, other than by reorganization or elimination of individual positions, ~~an~~ [represented] employee in the unclassified service whose [permanent] position is eliminated shall have the same rights, under the same conditions, as provided to classified employees pursuant to Section 3-291, except that nothing herein shall restrict the appointing authority's ability to determine the positions in the unclassified service to be eliminated.

SECTION 2. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its passage.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2010.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2010
Mayor Approval/No Return: _____, 2010
Mayor Veto: _____, 2010
Council Override Vote: _____, 2010

REBECCA E. KLISCH
City Clerk

BY:_____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: Tommi R. Saghatelian
Tommi R. Saghatelian
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