

**City of Tacoma Civil Service Board
MEETING MINUTES**

Date and Time: March 1, 2018 at 5:00 PM
Location: Tacoma Municipal Building, Council Chambers
Chair: Beckie Summers
Coordinator: Wendy Hobson

Call to Order:

The Civil Service Board meeting was called to order in Council Chambers of the Tacoma Municipal Building at 5:00PM by Chair Summers. Board Members Hansen, Sexton, Heller and Andrews were present.

Approval of Minutes:

Board Member Heller motioned to table the approval of the February 1, 2018 minutes until the audio file was available stating there were inconsistencies. Board Member Sexton seconded the motion.

A VOICE VOTE WAS TAKEN: 4 AYES, 0 NAYS, 0 ABS. THE MINUTES FOR FEBRUARY 1, 2018 WERE TABLED.

Communication for Information:

Coordinator Wendy Hobson provided an update on the date for the next study session which will be on May 3rd.

Chair Summers advised that Alice Phillips of IBEW Local 483 will be sharing a presentation. Alice Phillips, Business Manager of IBEW Local 483 shared concerns that have been brought up with prior Human Resources Executives but not with the current Executives and we feel like it is stalling so we're coming here to ask you a couple of things. I want to point out first what gives you the authority to investigate what I'm asking for and I believe that the Tacoma Municipal Code 1.24.270 Powers and Duties of the Civil Service Board gives you the authority to investigate our concerns.

Ms. Phillips advised that the concern she wanted to address first is this; Classified vs unclassified and what the rules say are the limits to when an employee or a classification should fall under the civil service authority and when it becomes unclassified and isn't covered by the Civil Service Board; in the next tabs we have the rules we think may be violated and the city charter that might be violated and what we are requesting is that you look into that; if we're wrong, thank you for the investigation, if we're right, we'd like to see it corrected so that we're in compliance with the charter and the civil service board.

Article 6, Section 6.1 of the charter describes when someone is exempt from civil service employment. Ms. Phillips read aloud section 6.1 in its entirety and referenced Tacoma Municipal Code 1.24.290 classified vs unclassified civil service stating they basically state the same; non civil service employees should be limited. Example: number of MA in 2010 was 42, in 2016 that number increased to 122 and in 2010 there were only 42 – are these new classifications? Are they replacing classifications; they are replacing classifications with Management Analysts. An example is if an office assistant position retires, there is a good possibility that that position will be replaced with a Management Analyst; that is why those numbers are increasing. The next illustration is the classified clerical unit positions from 2010 had 191 positions, today has fewer than 153, that is 35 fewer positions and is a loss of 35 classified bodies. In the city Attorneys in 2010 there were zero, in 2016 there are 2; if you take a look at the City Managers Office, there were 3 in 2010 and now there are 11. In Customer Service there were 9 in 2010; now there are 4; this is an area where it went the other way.

Our interpretation of the City Charter and the Civil Service rules are that these positions should be classified. In 2018 there were 832 appointive unclassified positions and 2653 permanent classified positions; July 1, 2009 there were

697 appointive positions and 2832 classified positions which is an increase of 141 appointive or unclassified positions in the City of Tacoma. 2009 126 appointed positions, 2018 there were 198 appointed positions.

Job specifications for Management Analyst goes citywide but if an employee requests to be transferred from one Management Analyst position to another, chances are you they would not be allowed as classifications are citywide but specialized; it's not fair to employees; it boxes them in and they can't transfer.

The next area of concern are the lists. There are so many different types of lists for the classifications even though they are one citywide classification; 1.24.600 posting of eligibility lists talks about when the Civil Service Board is to approve departmental promotional lists; 1.24.540 promotional exam seems to be in conflict with 1.24.600. For example, the customer service rep tech list. Customer service rep tech is a citywide classification this came about out of the pay and comp study where we took classifications and made them citywide. There is no general customer service tech list; there is currently one list in Finance and there is one in TPU departmental promotional internal only so if you happen to be a customer service rep tech in Solid Waste you can take the test to see if you qualify for the list in Finance but you can't take the test for TPU; This limits ability to promote and to transfer and also has an impact on the lower classification of customer service rep. On Page 5, tab one there is a list of all of the eligibility lists that are covered in the muni code; there is an open list, a departmental promotional list, there's a promotional list, a transfer list, reemployment list, demotion and lateral entry.

Ms. Phillips referenced Tab 9 and an email from Joy St. Germain explaining how to get on a transfer list stating if I were a Customer Service Rep Tech, it is possible I would have to put my name on each one of those lists; you may have to put your name on four lists to be considered when normally you would only have to put your name on one; The problem I am hearing from our members is when am I limited to applying for this classification in this one area. When we approach Management with it the response was they are specialized the work that they do here is much different than the work they do at TPU; then why are they the same classification? The generalist approach is not working.

Tab 10, we've included the customer service rep tech postings so you can see couple examples. The citywide classifications are not interchangeable; specialists vs generalists is not working; the employees do not know when they are supposed to use a promotional list or a transfer list; we are denying opportunities to promote and to earn a wage comparable to the work they are doing.

Board member Hansen asked Ms. Phillips if she had been able to track down the job descriptions for the positions that were eliminated between 2009 and 2018 and became some position that was classified into an unclassified Management Analyst position? Ms. Phillips indicated no, we don't find out about a position change unless a member calls and says this was a clerical position over here and now it's a Management Analyst position; if it is a non-represented position, I don't have access to that information. Board Member Hansen asked if the Management Analyst category covered a lot of job positions. Ms. Phillips indicated that this position is expanding and this is her concern; it is a catch all and she believes it was created as a way to circumvent the civil service process because they don't have to test for a Management Analyst; it's classified. Board Member Hansen asked what other types of positions are in the Management Analyst category that she is aware of; the Management Analyst position is a broad category that covers a number of positions; are there some other types of jobs that are included in the Management Analyst category that you are aware of? Ms. Phillips said yes, but she doesn't know how to tell you which positions these are; they are creating new positions and not filling old ones; they promote that employee to a Management Analyst position and that employee takes the work with them; I just don't have access to that as they are not all my members; we are not notified and I'm sure that is something Human Resources can provide. Board Member Hansen asked if what she was saying about the list in general was that it is hard to transfer and promote between departments; stuck in the same department and if you want to promote or transfer to another position you are pretty much limited to one department; and you're saying that this appears to conflict with the personnel rules? Ms. Phillips stated what has happened is the rules were set up one way and then we went to this broad-banded

classification where it's one classification citywide and now we have compartmentalized with the promotional lists and its limited their ability and I don't think it's for the betterment of the organization.

Roberta Burnett, Assistant Business Manager of IBEW Local 483 provided additional context. Ms. Burnett added when she started working for 483 there was one tech list and in the last two years it has come to Finance has a tech list, customer service at TPU has a tech list so if Environmental Services needs to fill a tech position, they have to create their own list; they don't have their own list. Ms. Burnett referenced Joy's email which outlined there are two lists now; they are narrowly defining their lists and each one has different responsibilities; if Environmental Services wants to fill a tech position they don't have a list and not sure how they are supposed to do that; they are creating sub-lists off of lists.

Board Member Heller asked in the positions that are your members that moved from a classified to a non-classified position, are they still bargaining unit members? Ms. Phillips responded, no. Board Member Heller asked if they were moved out of the bargaining unit; and are they doing completely separate work? Ms. Phillips said no, a lot of times they take the work with them; that would be a skimming charge and would be better served by PERC; that is not what we're asking you to look at, what we are asking you to look at is how can you create an unclassified position when you are limited by the City Charter and the Civil Service rules as to what those unclassified positions are; in my opinion, Management Analyst should be classified along with quite a few others.

Board Member Sexton asked Ms. Phillips to go over for him how the lists work for the Management Analyst. Ms. Phillips stated there is no list for the Management Analyst, it's unclassified. Board Member Sexton stated in all of those positions in 2009 and 2010 there was places where we saw in the City Manager's office an increase from three to ten and so on and so forth; those people were hired without any list. Ms. Phillips indicated this was correct. Board Member Sexton added and those people could have been anybody, they could have been existing people or...we don't know. Ms. Phillips said if they were current employees and reclassified, they were current employees and their classification was changed to Management Analyst; The kind of the heart of the issue is that when you have unclassified positions, it circumvents this board and it takes away the rights of the employees unionized or not all kinds of appeal rules because it takes away those rights because they are now unclassified; it's a way to circumvent this board and the policies and I think it's wrong; it violates the City Charter and the Civil Service rules.

Board Member Hansen asked if Ms. Phillips had tracked down the job descriptions for the unclassified positions; I imagine they exist and that might be a start; that might be something we can do eventually to get those job descriptions to see what kinds of positions are unclassified; and you are saying that the Management Analyst positions are obviously unclassified; and they don't necessarily fall into the categories that are listed as unclassified positions under the personnel rules or the City Charter. Ms. Phillips stated she didn't believe so.

Board Member Andrews asked for clarification regarding Ms. Phillips statement that there are no lists; what I need clarification on is 1.24.110, definition for an open list and then there is another one, 1.24.125 that defines eligible lists that talks to individuals being qualified; so when you say there is no list for Management Analyst, are you saying there is no open recruitment? Ms. Phillips reviewed the document in the binder and indicated she misspoke, that there is a list for Management Analyst but that they are not classified; so her understanding is that these rules only apply to classified employees so the definition referred to would not apply to an unclassified position. Board Member Andrews asked Ms. Phillips to point her to a particular rule that says what she just said. Ms. Phillips directed Board Member Andrews to the notebook, first tab, page 2 under the City Charter Article 6, Section 6.1 lists out those employees that would be considered unclassified if they fall into those categories; if they don't fall into those categories then by section 6.2 they become classified; so 6.1 gives you the exemption and section 6.2 basically says everybody else is in civil service except for these exemptions. 1.24.290 classified and unclassified Civil Service, that basically rephrases the City Charter in telling you what classified service shall consist of. Board Member Andrews confirmed the argument is 6.1 is being misapplied and based on the work you believe the work is classified; if the work is classified, if the work is being misapplied then the use of the term list doesn't apply to them; the people who apply and the people who are being hired. Ms. Phillips indicated that she did not understand the question; her

understanding now, and she misspoke earlier is there is a list for the Management Analyst however these rules don't apply to the Management Analyst; if there is a list it is because management wants to create it; not because its created based on requirements of these rules; I think if you take a deeper dive into this you are going to find that there are other classifications that should fall under the classified service that aren't; I believe it's being done to circumvent the hiring process that is laid out in the civil service rules.

Board Member Heller stated it seems to her that maybe the appropriate first step in considering this issue of classification being brought up by Ms. Phillips is to start by scheduling a study session where we can have HR come and give us more information about how they determine if these positions are classified or non-classified and what they are basing their decision on and I think that would be the best first step having; and having a study session is an open public meeting as well and I would encourage the union to come and participate as well; we are asking a lot of questions that are really more appropriately towards HR rather than the union.

Board Member Hansen agreed this was a good idea, one place we can start is to get the job descriptions of the positions so that we have some kind of a handle on what positions we are talking about; we should have as much information as we can get; would be beneficial; I think we should have a study session and I would encourage Ms. Phillips to attend that as well so we have as much information as we can get on these particular issues.

Ms. Phillips suggested to Chair Summers if they look at the class specs they should look at the PDF that go with those specifications; the class specs are citywide and then the PDFs tell you what the individual will do in each department so you really need both to understand the position. Board Member Sexton questioned if it's a classification and then a description. Ms. Phillips indicated yes.

Chair Summers indicated the soonest we could schedule this for a study session would be June asking if that was timely enough for both parties. Assistant HR Director Shelby Fritz stated this was the first she had heard about this and asked if she could be provided a copy of the notebook and material that was provided to the Board this evening. Ms. Phillips added that this issue was not boiling over and if the City needed additional time they were fine with that. Chair Summers confirmed a study session would be scheduled and if additional time was needed for HR to let her know.

Actions on Items Still Pending / New Business:

Chair Summers stated this would be the Adoption of Proposed Findings of Fact and Conclusions of Law in the Matter of Gabriel Hernandez; you should all have that document in front of you; there were a few changes suggested by one of our Board Members. Board Member Heller shared that suggested changes were not included and would propose to amend the procedural summaries starting under the findings of fact at item number 8; in the second sentence where it says that the City does not and it currently says proactively remind employees, I would insert consistently or; then under the conclusions of law, item 7, I would amend the current language so that it says in light of the length of Mr. Hernandez' service; *strike* however and; so that it says in light of the length of Mr. Hernandez' service, lack of clear evidence of comparable discipline for similar offenses; also *strike* however, *insert* and the lack of a thorough investigatory process, this board finds, under the circumstances of this case termination is not the appropriate measure of *insert* progressive discipline; those are my changes; I'm okay with 12, she got 13, I'm good, it's just those two; conclusions of law number 7 and the findings of fact number 8.

Board member Heller moved that the Findings of Fact and Conclusions of law be amended to include the changes she just read off. Board Member Sexton seconded the motion.

A VOICE VOTE WAS TAKEN: 4 AYES, 0 NAYS, 0 ABS. THE MOTION TO AMEND THE FINDINGS OF FACT AND CONCLUSIONS OF LAW IN THE MATTER OF GABRIEL HERNANDEZ PASSED.

Chair Summers asked that the Board Members not leave until they have initialed the changes and their signatures.

Human Resources Director Report:

Assistant HR Director Shelby Fritz advised that item (c) under requests has been removed for tonight. Ms. Fritz reported on a list abolishment for Wastewater Treatment Plant Electrician / Instrumentation Technician.

Chair Summers advised Board Members that she has the changes and if they would please initial to affirm that would be sufficient.

Human Resources Analyst Rodney Croston introduced Desiree Radice, Environmental Specialist, Senior to present a Request for Waiver of Competitive Examination for Luis Yanez, Environmental Technician. Board Member Heller asked what the minimum qualifications for this position were. Mr. Croston advised that they did not bring the job class spec with them this evening. Board Member Heller asked when did the City last recruit for this position. Mr. Croston advised that Luis was placed into the project position in 2014/2015 and even though it was a classified job, the position was time limited and so the Civil Service rules don't apply to that position. Board Member Heller asked how long Mr. Yanez was in the project position. Ms. Radice advised since April of 2015. Mr. Croston added that the project doesn't end until 2022. Board Member Sexton addressed Mr. Croston about how he initially spoke to how Mr. Yanez was hired; there was a list. Mr. Croston advised there was not a list as Mr. Yanez was a classified employee. Board Member Sexton expressed his disappointment with this report; I haven't been disappointed in quite a while; I pretty much make my decisions based on the reports; typically after much complaints the reports have been excellent lately; there is very little information here; the first page here speaks to the position; doesn't really speak to the person until you get to the bottom of the second page; seems like we've been over this many times and I've been very happy with the improvement and reports we've seen but this one I think is a step backward; I'm disappointed in the lack of information; there would not be enough information here for me to make a decision just reading this.

Mr. Croston provided the minimum qualifications for the position. Board Member Heller confirmed an AA degree, two years, or a BA degree, or four years of experience or any combination thereof education and experience. How many positions do you have of this classification roughly; I'm not going to hold you to an exact number. Mr. Croston advised in the neighborhood of less than ten. Board Member Heller asked do you anticipate hiring more than just this one; are the other somewhere between one and ten, are they permanent employees or also project? Mr. Croston indicated we are not aware of any other project positions; we use this classification all the time at TPU and I'm more familiar with those positions; all of our techs are permanent; Board Member Heller added she appreciated Mr. Croston being on the spot tonight and recognize you're stepping in for a coworker and so part of this struggle isn't yours; however I am going to support this request from the City with slight concerns; basically I'm supporting this is because you have got somebody that has been working for the City for three years in this position so it makes sense but with this type of four years of experience, an AA degree - two years, these type of lower level positions really just so you know from my perspective aren't ones where I want to waive a competitive process.

Board Member Sexton indicated he is going to support this request somewhat reluctantly because it could be the right thing to do; got a little bit of information about this employee and I certainly don't want to do the wrong thing; in the future I would really appreciate more information.

Chair Summers indicated she did not have a motion. Board Member Heller moved to grant the request as previously stated. The motion was seconded by Board Member Sexton.

A VOICE VOTE WAS TAKEN: 4 AYES, 0 NAYS, 0 ABS. THE MOTION TO GRANT THE REQUEST FOR LUIS YANEZ, ENVIRONMENTAL SERVICE TECHNICIAN PASSED.

Luis Yanez expressed his appreciation to the Board for approving the request.

Mr. Croston presented a Waiver of Competitive Examination for Jeffrey Winget, Signal & Lighting Electrician. Board Member Heller motioned to approve the request. Board Member Sexton complimented on the excellent report and seconded the motion.

A VOICE VOTE WAS TAKEN: 4 AYES, 0 NAYS, 0 ABS. THE MOTION TO GRANT THE REQUEST FOR JEFFREY WINGET, SIGNAL & LIGHTING ELECTRICIAN PASSED.

Jeffrey Winget expressed his appreciation to the Board for approving the request.

Comments by Board Members:

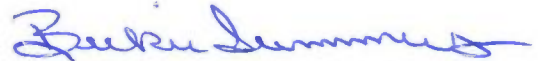
Board Member Heller asked Coordinator Hobson how long does it take....as she was looking back and we don't have any of the audio recordings posted for this year....on average to get the audio recordings posted to the website; Ms. Hobson advised normally the audio files are posted within a week or two and believed that January had been posted. Board Member Heller indicated no, not as of 4:00PM this afternoon. Ms. Hobson indicated she would check into this.

Chair Summers asked for a formal motion to approve the Findings of Fact and Conclusions of Law as amended. Board Member Heller motioned to approve the Findings of Fact and Conclusions of Law as amended. Board Member Sexton seconded the motion.

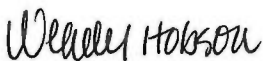
A VOICE VOTE WAS TAKEN: 4 AYES, 0 NAYS, 0 ABS. THE FINDINGS OF FACT AND CONCLUSIONS OF LAW IN THE MATTER OF GABRIEL HERNANDEZ WERE APPROVED AS AMENDED.

Meeting adjourned at 6:05PM

ATTEST:



Beckie Summers
Chair



Wendy Hobson
Civil Service Coordinator