

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

Date and Time: February 6, 2020 at 5:00PM
Location: Tacoma Municipal Building, Council Chambers
Chair: Beckie Summers
Coordinator: Wendy Hobson

Call to Order:

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

Doris Sorum administered oath to Amy Heller.

Approval of Minutes:

Chair Summers asked for a motion to approve the January 9, 2020 Special Meeting minutes. Board Member Sexton motioned to approve and Board Member Heller seconded the motion.

A VOICE VOTE WAS TAKEN: 4 AYES, 0 NAYS, 0 ABS. THE MINUTES FOR JANUARY 9, 2020 WERE APPROVED AS WRITTEN.

Communication for Information:

Jennifer Taylor advised the Board that she is stepping down as Legal Advisor to the Board and that Martha Lantz will be full time advisor to the Board beginning in March.

Actions on Matters Still Pending / New Business:

Coordinator Wendy Hobson shared a Request for an Appeal received from William Sharer. Ms. Taylor provided her legal opinion stating that this request was not appropriate for an appeal to be heard by the Board; anything that is subject to adjudication under the terms of the CBA is not to be included as an appeal or complaint before this Board's jurisdiction.

Board Member Hansen stated that under the personnel rules it is clear that we cannot hear this appeal but welcomed Mr. Sharer to come before the Board during the public comment portion of the meeting to share his issues with this particular personnel rule.

Board Member Heller added that should the Board entertain a rule change, it still would not apply because of the rules in the current CBA. If a change was made it would be a perspective change, we do not apply retrospectively.

Chair Summers advised Mr. Sharer that this Board cannot hear this as an appeal and invited him to speak during the public comment section of the agenda; perhaps a future meeting as this was going to be a long meeting.

Ms. Taylor suggested the order of the agenda be reversed due to the anticipated lengthy discussion on residency.

Assistant Human Resources Director Shelby Fritz presented the Director's report.

Human Resources Analyst Marie Angel presented a Waiver of Competitive Exam for Stephen Atkinson, Principal Planner. Planning and Development Services Manager Brian Boudet shared additional details supporting this request.

Board Member Hansen moved to approve the request. Board Member Sexton seconded.

A VOICE VOTE WAS TAKEN: AYES, 0 NAYS, 0 ABS. THE MOTION PASSED TO PERMANENTLY APPOINT MR. ATKINSON INTO THE CLASSIFICATION OF PRINCIPAL PLANNER.

Human Resources Analyst Alissa McLain presented a Waiver of Competitive Exam for the Line and Wire Electrician Apprentice graduates Landon Byman, Gary Ponciano, Kevin Ward, Andrew Aubry, Michael Bauer, Marco Gonzales and Michael Sterling.

Board Member Sexton moved to approve the request. Board Member Heller seconded.

A VOICE VOTE WAS TAKEN: 4 AYES, 0 NAYS, 0 ABS. THE MOTION PASSED.

Ms. Fritz presented her research and background on the residency requirement as stated in both the Charter and the Municipal Code and provided an overview of the blanket waiver currently in place. Also shared was what a residency preference might look like along with comparisons of various jurisdictions.

Board Member Heller pointed out errors in the table on residency history. Ms. Fritz advised this was the best recollection she could find but if additional details were available she would like to chat off line to learn more. Chair Summers indicated she also recalled this information and that it was brought up every month; we had to grant the residency to the City. Ms. Fritz asked if the Board enjoyed approving these each month. Board Member Heller responded it is not a matter of enjoying, it is a matter of upholding the Charter, which is what I was sworn to do again tonight; a residency waiver is not in alignment with what the Charter says. Heller further stated the residents of the City of Tacoma clearly support the residency requirement and as a sworn Board Member, it is my duty to support that as well.

Board Member Hansen echoed the comments by Heller adding we can have a residency requirement in the City; if you read a strict reading of the Charter, it states you only have to be a resident at the time of appointment and that it is only a matter of screening a person's residence only at the time of application and if they are a resident at that time they should be given preference.

Chair Summers also echoed these comments stating the duties of the Board have rather been ignored and it is time for us to take those seriously; we have to uphold the laws of the United States and the State of Washington and our current Charter as it is written; there have been revisions made but not enough to take away the duties we have been assigned.

Ms. Fritz shared we need to think about overall what the goal is; it is in our current Charter but is what we are trying to accomplish really providing the City of Tacoma residents with job opportunities or is it really providing the City of Tacoma residents with cost effective, high quality and innovative services. Chair Summers asked how are those different; why is there an "or" there. Ms. Fritz continued stating another consideration is whether a residency preference is legal; it is but we have to have justification for allowing it that meets the legal constitutional test and does not result in discriminatory hiring practices.

Board Member Hansen asked to interrupt stating this may be subject to a constitutional challenge under the rational relation test. I think we all agree that the rational relation test is a highly deferential standard of review, which means that courts will not overturn the governmental statute or charter in a constitutional challenge unless it is almost completely arbitrarily capricious.

Ms. Taylor shared her research on case law citing a case in the ninth Circuit District Court in the State of Hawaii and explained the level of difficulty finding like cases. Hansen stated it is very rare that courts will overturn a challenge if there is a rational relation standard of review; also we are not asking for a duration requirement here, all we're asking is that the individual be a resident when they are hired. Ms. Taylor cautioned as the Board's Legal Advisor that it must be based on some sort of evidence; upon establishing a preference, it has to be more than the Board's stated desire.

Chair Summers confirmed the waiver was not a part of this discussion. This is about the actual residency waiver and if we are going to take that step forward; we are questioning whether we have a reason to look at a residency preference; they are two different things. Board Member Hansen voiced he had the understanding that we were going to consider not having the blanket waiver anymore. Chair Summers said no, we are not considering that. Hansen added he has asked a number of times that we consider that issue. Chair Summers said we could consider that another time. Hansen followed with I don't know why we wouldn't consider the residency waiver along with the residency preference; Shelby Fritz has gone over the residency waiver as well as the residency preference. Chair Summers stated the residency waiver is not up for discussion; we are looking at the residency preference.

Board Member Andrews asked for an example and is there connection when I hear them say in terms of residency preference, is that relevant to how information is presented when you talk in terms of how many residents, how many applicants were from Tacoma and how many were hired; is preference a consideration in that, is residency considered in how applicants are ordered and referred to management for consideration, is there anything that identifies whether they are Tacoma residents or not.

Ms. Fritz responded that residency is not taken into consideration in our current hiring process at all; I believe the reason I report the way that I do is because the Board had requested it that way at some point. Board Member Andrews asked if in fact we were talking about a residency preference, there would need to be a process put in place; is there currently a process for us to consider whatever impact the Board chooses to make, what that would look like relative to the ordering of the applicants and how do you identify them; do you have a process. Ms. Fritz explained what she would anticipate wouldn't be that different than veteran's preference.

Board Member Sexton on your point of how a preference would or could work; one thing I didn't see in our packet is that the last charterer review did a lot of work on this issue. Joy came up with the idea of the preference and how she proposed it would work; a lot of information on that and I'm surprised you don't have that. Ms. Fritz indicated she reviewed every document she could find but did not see anything that explicitly proposed a certain way of doing it.

Ms. Taylor asked for clarification on what Board Member Sexton was referring to. Board Member Sexton indicated we were talking about the charter review process and the proposed changes to the charter and they came up with idea it would be better for us to do it here.

Board Member Hansen asked Martha Lantz, future Counsel to the Board about her work with the charter review and confirmed that Joy did come to the Charter Review Committee and that she did bring materials and if you don't have them, the City Clerk's office has them.

Deputy City Attorney Cheryl Comer added that the City Attorney's opinion is that the residency requirement is legally unenforceable and wanted to touch on the section that you are referring to; I appreciate the desire to uphold the charter; I think it is paramount and we all use it every day in our ever day work along with the code but there are provisions in the charter that don't keep up with the law and the residency portion is one that has been impacted by case law. The first line of that section is that no person shall be eligible for employment in city service who is not a citizen of the United States.

Board Member Hansen indicated he takes issue with whether or not the residency requirement is legally enforceable because as mentioned earlier there were parameters that were laid out in Ms. Taylor's memo and statutory mandates, also case law that limits a residency requirement.

Ms. Fritz shared results of a survey that she had sent out to other municipalities and of those that responded none had a Board such as the City of Tacoma. She also shared the effort the City has put forth in attracting a diverse workforce mentioning some of the results of our workforce

equity study and specifically our EEO data. Sharing some of her perspectives on where are struggling to fill positions; within IT we are getting a lot of applicants from outside the US, competition for Engineers with a diverse background; we are struggling in that area as well.

Board Member Sexton appreciated the graphs presented but would like to see graph on the make-up of the City.

Chair Summers announced a five-minute break.

Diane Powers, Chief Equity Officer shared information on the City's adoption of the Equity Framework and the goals within this framework. Ms. Powers explained Tacoma is a very different city that it was years ago; housing is expensive and staff cannot afford to live here.

Board Member Heller asked Ms. Powers if she would agree that the numbers of hired employees don't represent the parity numbers in the community; and would you she not also agree that in looking at parity numbers for diverse communities that the City of Tacoma has much higher levels than communities in surrounding Pierce County. Ms. Powers deferred to Ms. Fritz.

Ms. Fritz mentioned the workforce equity study and the suggestion that the community for the labor market we are drawing from is actually not the City but Pierce County; the City is much more diverse than Pierce County but there is a lot more people from Pierce County to draw from so it gives us that larger pool we are looking for.

Alice Phillips, Business Manager of IBEW Local 483 spoke on behalf of Joint Labor. Ms. Phillips spoke about the Rule of 10 and Rule of 3; the question she would be fielding if the preference goes through is what is the difference between I-200 and this. Board Member Heller explained that I-200 you had to do a notice of intent to hire stating that you were only going to be considering those that met the requirements of whatever that was; a preference is more along the lines of a veteran's preference. Ms. Phillips understood but laymen's are not going to understand that. She lived in Tacoma when she was hired but moved out of Tacoma for personal reasons. It would be more important for an executive of the city to live in the city but not for an Office Assistant. I do recall Joy's idea and there were holes in that; we are a regional community. I am not against residency; times have changed.

Board Member Andrews asked if there was something in the charter that states the intent of the residency requirement. Ms. Taylor responded there is not; the intent language is not in the charter. Board Member Heller stated there are provisions within the rules to do waivers and the Board did grant these by classification in the past. Board Member Hansen agreed with this. Board Member Heller indicated one of the issue she has with the blanket waiver is that when we're looking at entry level positions when there's an ample supply of Secretary I, or Office Assistant 1, where there is not a high skill set and there are times when a high school diploma or not a high school diploma. The residency requirement is not a barrier for those positions;

that's part of this Board's work is to assess whether that is reasonable to put forward or not.

Board Member Andrews questioned apprenticeship programs that would bring in diverse applicants who are residents of the City. Ms. Fritz shared information on a formal internship program which is currently being developed. Board Member Heller asked about the Youth Builds Tacoma and what happened with that; it was working well and bringing in more diverse candidates working with our local high schools.

Chair Summers explained part of the reason this has come up is because of the poverty in Tacoma and the fact we have more diversity in the City than we do the county; I don't want to hide what I'm working to get, we have a crisis in Tacoma with the employment picture not reflecting the City. There is a specific purpose of residency; that is to end corruption and to end some of the activities of knowing somebody in Tacoma to get a job; about protecting people and that rules are the same for everyone; that has not changed. There is a purpose for residency and that is to empower our citizens. It is Tacoma first and we should give them an opportunity; we should do our part in ending those barriers.

Board Member Hansen moved to abolish the blanket waiver. Heller seconded the motion.

Heller, for me and my experience with the board we had the residency requirement in the 90's; it would be more cumbersome to the board meaning more regular meetings of the board; a waiver could be sought in the beginning of a recruitment or once a candidate has been selected, you could come before us and request that. To promote the standard of living and the workforce I see that the blanket waiver of putting on blinders does not serve us well. For those reasons, I am supporting the abolishment of the blanket waiver. Ms. Taylor reminded the Board that in the past, the board was meeting twice per month.

A VOICE VOTE WAS TAKEN: 4 AYES, 0 NAYS, 0 ABS. THE MOTION TO ABOLISH THE BLANKET WAIVER PASSED.

Chair Summers indicated that the second item regarding preference is not yet ripe and should be discussed further.

Board Member Heller added she thinks that the Board's consideration to replace a; once a preference system has been established to then replace to the blanket waiver to accommodate the preference system is something we are certainly willing to consider. I don't think it is our position to determine how; I would request that the city look at that similar to a veteran's preference and to put that together and bring it before the Board for consideration.

Rodney Croston, east side resident and former City of Tacoma employee shared his thoughts on a residency preference stating he believes this is a bad idea.

Human Resources Director Gary Buchanan shared the City's focus on strategy; how we attract that young girl in high school to apply for some of the trades positions mentioning we just had



Women in Trades fair here at the City of Tacoma. He also shared it is highly competitive; its underrepresented communities and the challenge is that they are being recruited by other surrounding municipalities. We are fighting for these folks and fighting to keep what we have; the workforce equity study will show us valuable information.

Chair Summers stated she was sorry he brought this up on his way out; that this Board is not being kept informed and that they were told they had no say in how this study was going to be done and would like more information on this. In the past and this study in particular we know nothing about. Director Buchanan assured the Chair that information will be made available.

Meeting adjourned at 7:24PM

ATTEST:

Beckie Summers, Chair

Wendy Hobson
Civil Service Board Coordinator