

CITY OF SEBASTOPOL
CITY COUNCIL
AGENDA ITEM

Meeting: July 19, 2022
 To: Honorable Mayor and City Councilmembers
 From: Cherie Johnson, Human Resources Advisor, Regional Government Services
 Kevin Kilgore, Chief of Police
 Larry McLaughlin, City Manager
 Subject: Consideration for approval of an exception to the 180-day waiting period to hire a CalPERS retired annuitant
 Recommendation: That the City Council:
 Consider Approval of a Resolution approving an exception to the 180-day waiting period to hire a CalPERS retired annuitant in accordance with Government Code Sections 7522.56 and 21224.
 Funding: Currently Budgeted: X* Yes No N/A
 Net General Fund Cost:

*The total cost of \$20,800 will be absorbed in the current budget and covered by salary and benefit savings.

Costs authorized in City Approved Budget AK (verified by Administrative Services Department)

INTRODUCTION /PURPOSE:

This item is to respectfully recommend that the City Council consider approving an exception to the 180-day waiting period to hire a CalPERS retired annuitant in accordance with Government Code Sections 7522.56 and 21224.

BACKGROUND:

The Public Employees’ Pension Reform Act of 2013 (PEPRA) made substantial changes to public employee pension laws in California. One of those changes requires retired annuitants to be separated from employment for at least 180 days before returning to work for an employer in the same retirement system from which they receive a pension. An exception may be made if the governing body adopts a resolution to waive the waiting period for separation. The waiver allows an employer to hire a retired annuitant to fill a critically needed position and to perform work of limited duration, such as the elimination of backlogs, limited term special projects, and work that is in excess of what regular staff can reasonably perform.

Due to long-term leaves, a recent retirement, and a recent hire still in training, coupled with several federal mandates, the Police Department is currently experiencing a backlog of support services work, work in excess of what regular staff can do, and has several limited term special projects that are Federal and State mandated for completion in the first half of this fiscal year. The work of the support services division within a Police Department is critically needed as it relates to records, reporting, communications, property, and evidence pertaining to case files, ongoing investigations, litigation, federal, state, and local court cases, and sensitive information belonging to individuals.

DISCUSSION:

The newly promoted Police Records and Support Services Manager, promoted from the dispatch unit, is currently providing full-time services as a dispatcher. The nature of the staffing shortfall in dispatch necessitates a full 7 day,

12-hour schedule for each pay period. The frequency and timing of calls coming into dispatch does not allow much time to perform records or support services work. Dispatchers are essentially bound to the work station at all times in order to answer phones, perform work on the computer-based data systems and handle all broadcasting duties inherent with dispatch. Additionally, the Records and Support Services duties require blocks of virtually uninterrupted time to complete accurately and well. These time commitments are simply not available during the time the current Records and Support Services Manager is having to supplant dispatching duties. The Police Technician has been assigned and has stepped up to help out with the services, but this does not allow for timely completion of all duties and responsibilities. Therefore, a backlog of work has developed.

Additionally, there are two key mandates the department faces that must be implemented and administered by a trained individual during the next six months. The newly promoted Police Records and Support Services Manager is not trained in the administration, specifications, and requirements of these mandates and while needed full-time in dispatch, does not have the time for training.

California Comprehensive Incident Based Reporting System (CIBRS) and the National Incident Based Reporting System (NIBRS)

For several years the Federal Bureau of Investigation has collected and reported out on data reported via the NIBRS system. The NIBRS system collects and aggregates crime and incident data through a plethora of values allowing detailed reports related to what, where, and why of crimes and incidents. The reporting and process for reporting this data is rapidly become mandatory by every law enforcement agency throughout the County. To collect the data, the State of CA has implemented their own incident-based reporting system (CIBRS) and has mandated reporting as well.

Both the federal and state organizations responsible for the system and data integrity have mandated detailed specifications, elements, timelines, and processes for ongoing uploading and reporting of data.

The deadline for system implementation for both CIBRS and NIBRS is September 30, 2022. The Police Records and Support Services Supervisor is responsible for the ongoing data uploads and administration of this reporting mandate.

Encryption of law enforcement radio communications

In October of 2020, the California Department of Justice (DOJ) mandated that law enforcement and other required agencies protect certain personal information that law enforcement personnel obtain from state databases such as the California Law Enforcement System (CLETS) like names, driver's license numbers, dates of birth and other sensitive information. Failure to encrypt radio communications to protect this sensitive information will mean that the Department will not be able to transmit or receive any sensitive data over the radio.

Identity, Unique Qualifications, and Role of the Retired Annuitant

Staff recommends Tracy Peters be hired to work on a limited term basis as a retired annuitant extra help perform implementation and administration of the federal and state mandates and duties similar in function to the Police Records and Support Services Manager to help clear the backlog. Ms. Peters has retired effective June 11, 2022, with over 25 years of institutional knowledge and has been an integral part of all dispatch, administrative, records, and support services functions.

The Department is currently in a recruitment and hiring process for a vacant dispatcher position and to identify fully trained and experienced potential part-time, per diem dispatch personnel to address the staffing shortage. This shortage was created due to the retirement of Ms. Peters and the subsequent promotion to fill the Police Records and Support Services Manager position. In addition, one dispatch position is at least temporarily vacant and cannot be filled due to approved, protected leave by a current dispatcher. This has exacerbated the staffing shortage issue

in a small agency like ours. Additionally, the Department will be working collaboratively with the City Manager's office to bring solutions to Council based on recommendations in the recent staffing assessment.

Terms of Retired Annuitant Employment

As a retired annuitant, Ms. Peters will be limited to no more than 960 work hours in a fiscal year. It is anticipated the extra help assignment will last approximately four to six (6) months. The hourly rate must not exceed the maximum, paid by the City to other employees performing comparable duties, divided by 173.333 to equal an hourly rate. Ms. Peters will not acquire service credit or retirement rights with respect to employment unless she reinstates from retirement and will not be provided further benefits.

Ms. Peters will be required to certify in writing that she has not received any unemployment insurance compensation arising out of her prior employment with the City in the preceding twelve months.

Ms. Peters did not receive a retirement incentive upon retirement. This item must be heard in regular session and may not be placed on a consent calendar.

Staff recommends approving a resolution approving an exception to the 180-day wait period for the completion of critical work and based on specialized skills and hiring Ms. Peters as a retired annuitant extra help to implement the federal and state mandates and help alleviate the backlog of work in support services.

Summary

The Public Employees' Pension Reform Act of 2013 (PEPRA) made substantial changes to retirement law in California including California Government Code section 7522.56 which requires a 180-day break in service before a retired annuitant can return to work as extra help. The law allows for an exception to the 180-day rule for a critical need or for work that requires specialized skills of a limited duration. The Department has a need to implement new programs to remain compliant with critical Federal and State mandates and has a backlog of support services work due to a significant staffing shortfall. Tracy Peters is fully trained and up to date on key aspects of both mandates and brings with her 25 years of institutional and specific knowledge and training pertaining to complying with these mandates by the required deadlines. Staff recommends Council take action on regular calendar to approve a resolution approving an exception to the 180-day waiting period to hire a CalPERS retired annuitant (Tracy Peters) in accordance with Government Code Sections 7522.56 and 21224.

Compensation Recommendation

Staff recommends Ms. Peters be paid at the X step of the Police Records and Support Services Manager pay range \$XX.XX per hour.

PUBLIC COMMENT:

As of the writing of this staff report, the City has not received any public comment. However, if staff receives public comment from interested parties following the publication and distribution of this staff report, such comments will be provided to the City Council as supplemental materials before or at the meeting. In addition, public comments may be offered during the public comment portion of this item.

PUBLIC NOTICE:

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to schedule meeting date.

FISCAL ANALYSIS

The estimated cost of \$20,800 from July 1, 2022 through December 31, 2022 will be absorbed in the current budget due to salary and benefits savings of vacant positions.

RECOMMENDATION:

Staff recommends Council take action on regular calendar to approve a resolution approving an exception to the 180-day waiting period to hire a CalPERS retired annuitant (Traci Peters) in accordance with Government Code Sections 7522.56 and 21224.

Attachments:

Resolution

RESOLUTION NO. _____

RESOLUTION OF THE COUNCIL OF THE CITY OF SEBASTOPOL APPROVING AN EXCEPTION TO THE 180-DAY WAITING PERIOD TO HIRE A CALPERS RETIRED ANNUITANT IN ACCORDANCE WITH GOVERNMENT CODE SECTIONS 7522.56 and 21224.

WHEREAS, in compliance with Government Code Section 7522.56 the City of Sebastopol must provide CalPERS this certification resolution when hiring a retiree before 180 days has passed since their retirement dates; and

WHEREAS, Tracy Peters retired from the City of Sebastopol, Police Department, from the position of Records/Dispatch Supervisor, effective June 11, 2022; and

WHEREAS, Section 7522.56 requires that post-retirement employment commence no earlier than 180 days after the retirement date, which is December 8, 2022, without this certification; and

WHEREAS, Section 7522.56 provides that this exception to the 180-day waiting period shall not apply if the retiree accepts any retirement-related incentive; and

WHEREAS, The City of Sebastopol and Tracy Peters certify that Tracy Peters has not and will not receive a Golden Handshake or any other retirement related incentive; and

WHEREAS, the City of Sebastopol hereby appoints Tracy Peters as an extra-help retired annuitant to perform critical work related to federal and state mandates and duties similar to a Police Records and Support Services Manager for the City of Sebastopol, in the Police Department, under Government Code Section 21224, effective July 19, 2022; and

WHEREAS, no matters, issues, terms or conditions related to this employment and appointment have been or will be placed on a consent calendar; and

WHEREAS, the employment shall be limited to 960 hours per fiscal year; and

WHEREAS, The compensation paid to retirees cannot be less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 to equal the hourly rate;

WHEREAS, the maximum base salary for this position is \$7,516 per month and the hourly equivalent is \$43.36; and

WHEREAS, the hourly rate paid to Tracy Peters will be \$43.36; and

WHEREAS, Tracy Peters will certify in writing that she has not received any unemployment insurance compensation related to her employment with the City of Sebastopol in the last 12 months; and

WHEREAS, Tracy Peters has not and will not receive any other benefit, incentive, compensation in lieu of benefit or other form of compensation in addition to this hourly pay rate.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Sebastopol hereby approve a resolution approving an exception to the 180-day waiting period to hire a CalPERS retired annuitant (Tracy Peters) in accordance with Government Code Sections 7522.56 and 21224.

1. IN COUNCIL DULY PASSED, APPROVED, and RESOLVED this 19th day of July, 2022.

VOTE:

Ayes:

Noes:

Abstain:

Absent:

APPROVED: _____

Mayor Patrick Slayter

ATTEST: _____

Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM: _____

Larry McLaughlin, City Attorney