

EDITORIALS

City should heed own call to ‘walk the walk’ on gender pay equity

Mayor Tim Keller announced last month he was tightening down a program giving vendors competing for city contracts a preference if the disparity between salaries of their male and female employees did not exceed 7%.

The original incentive program to combat pay inequity was designed by activist Martha Burk and sponsored by City Councilor Diane Gibson in 2015. Under the new rule, a vendor must now have zero disparity to get the 5% preference.

“The playing field won’t be level until women, and especially women of color, earn fair wages compared to their counterparts,” Keller said in a statement announcing the change. “Part of that means rewarding companies that walk the walk.”

Fair enough. In addition, the new rule mirrors rules adopted by Bernalillo County and the Albuquerque Bernalillo County Water Utility Authority, providing consistency among partnering entities. On the surface, the city’s change appears a good move.

But there are two problems here.

First, both Burk and Gibson fear going to zero will essentially render the incentive program meaningless. “It will be too hard to do; I think you have to incentivize people gradually to get them from point A to point B, and this to me seems like too big a step,” said Burk, who also helped design the state’s gender pay policies.

Seven percent disparity might sound like a lot — it is. But not in comparison to the average pay gap in New Mexico of 21%. (New Mexico as a state ranks 15th nationally.) Data collected through the city procurement process found gender pay gaps up to 40%. About 80 companies have received the city’s certification since 2015.

“I think it (the change) effectively just kills the whole program that we worked so very hard on,” Gibson said.

And as for “walking the walk,” civil rights attorney Alexandra Freedman Smith is representing about 600 women who have joined a handful of individual plaintiffs in a class-action lawsuit against the city of Albuquerque alleging significant and systemic gender pay inequity.

The lawsuit filed in 2018 and amended in 2019 claims that depending on how jobs are classified, women are paid \$3 an hour to \$6 an hour less than male counterparts who perform the same functions, and in many cases the women have been in the jobs longer.

The base pay also impacts overtime and pensions, and in some cases plaintiffs allege as much as a \$7-an-hour difference. Freedman Smith says some of her clients are owed as much as \$100,000 because of the pay differential.

The state’s Fair Pay for Women Act adopted in 2013 makes it unlawful to pay women less than men for equal work that requires equal skill, effort and responsibility and that is performed under similar conditions. There are exceptions, including seniority and merit.

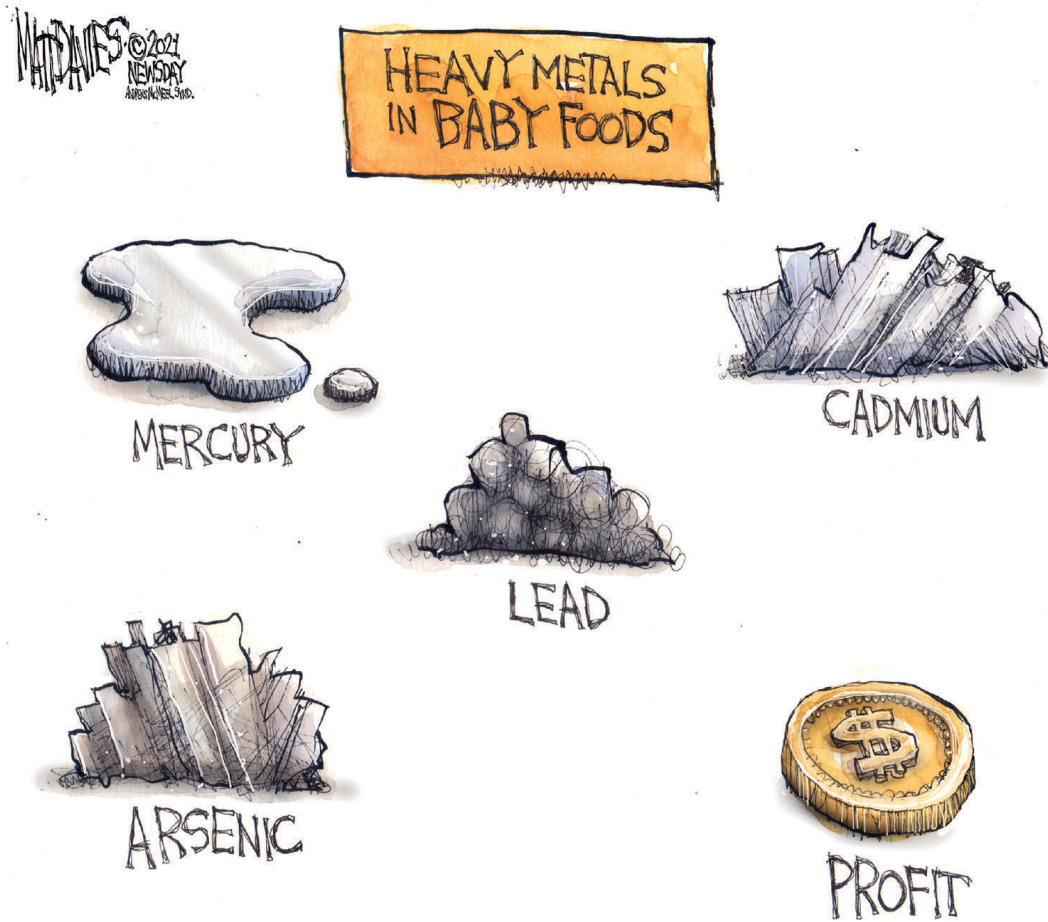
The lawsuit was certified as a class action in July by state District Judge Clay Campbell — a decision the city is fighting in court. The city won’t comment on litigation, but says the current administration “has been at the forefront of the pay equity fight for years.”

Freedman Smith, who served as staff attorney for the state commission that proposed a new state Civil Rights Act, sees it differently.

“It’s particularly egregious (Mayor Tim Keller’s Office) came out with something saying we want to have pay equity for women by giving preference to contractors who pay men and women equally,” she told New Mexico Political Report. “Mayor Keller needs to lead by example instead of fighting the women who work for him and steadfastly refusing them what they should be paid under the law.”

These are serious allegations with potentially taxpayer dollars attached, and the new policy brings the issue back into focus. Keller told the Journal “we are working hard on legacy pay inequities. ... We’re working on that in our own house, and with contractors bidding for taxpayer dollars.”

That is good to hear. In addition, the public, the women who work for the city and the City Council all need and deserve an honest accounting. And if inequities are found, a plan to fix them and compensate the victims. That would be “walking the walk.”



Impeachment a reminder three branches not ‘coequal’

JONAH GOLDBERG



Columnist

core constitutional responsibilities.”

I agree entirely, except for one thing — the word “coequal.”

Listen to representatives and senators, Democrats and Republicans, talk about impeachment or other issues that touch on the relationship between the three branches of government, and you’ll hear the word “coequal” over and over again. In 2019, when Nancy Pelosi was sworn in as speaker of the House for the second time, she proclaimed Congress “coequal to the presidency and judiciary.”

Richard Nixon must be having a good laugh. Until Watergate, the notion that the three branches of government were coequal was considered far-fetched. This coequal doctrine was largely an effort by the Nixon administration to keep congressional investigators at bay.

What does coequal mean? Well, equal means being the same in status. One hundred pennies equals one dollar. Coequal means having equivalent standing. A quarterback and kicker are equal on the same team, but they are not coequal in their power, pay or responsibilities. At least that’s what the Founding Fathers meant by coequal. Dictionaries have since muddied the waters.

The founders never imagined that the legislative, executive and judicial branches were coequals. Their intent, made plain in the structure of the Constitution, was for Congress to be supreme. That’s why Article 1 is about Congress — literally the first branch — and its powers.

Indeed, if you search through the Federalist Papers, the word coequal appears only eight times. Not once does it say that the three branches of the federal government are coequal. They reserved that term to describe the standing of the federal government to the states or the relationship between the House and Senate.

Think about what the founders were most passionate about. “Taxation without representation” probably tops the list. Well, only Congress can tax. Indeed, all tax bills are supposed to start in the House, because the House is elected by the people; senators were originally elected by the states. Con-

gress is also the only branch of government with “the power of the purse.” It alone — at least according to the Constitution — can declare war. Also, in case you forgot, it writes the laws.

Taxing, spending, declaring war, writing laws — that’s Congress’ bag, baby.

Now ask: What can Congress do that the other branches can’t? Well, through impeachment, it can fire the president, vice president or any member of the judiciary. Indeed, with the exception of the Supreme Court, it creates every other federal court. It also creates every federal agency and department. Everyone who works for Uncle Sam, except for the president and vice president, has a job created by Congress. And their job — including, for the most part, the president — is to do what Congress says.

As historian Jay Cost puts it, “If I get to tell you what to do, but you do not get to tell me what to do, who is actually in charge?”

Recall that the founders were drawing on the English experience — and their own as colonists. They were partisans of parliament, not the crown. Their biggest worry was that a president would become a new king, which is why they loaded up Congress with all the power.

Against this backdrop, the Donald Trump-inspired siege on the Capitol is not just a shocking affront to the constitutional order; Congress’ response is a sign of how damaged that order already was. In earlier eras, the reaction from Congress wouldn’t have been partisan but institutional. Don’t get me wrong: Trump deserved impeachment for his role in the Jan. 6 attack. That most congressional Republicans responded as if an outgoing president were their king is repugnant.

But Pelosi’s response, from refusing to consult Republicans in the drafting of impeachment articles to declining to recruit Republicans to serve as floor managers, was evidence that congressional Democrats see their role through a partisan prism, too.

When Trump attacked “Obama judges,” Chief Justice John Roberts — a Republican appointee — defended the judiciary. “We do not have Obama judges or Trump judges, Bush judges or Clinton judges,” Roberts said.

Congress should have responded in the same spirit. Legislators may be elected as Republicans or Democrats, but party affiliation is meaningless under the Constitution, and legislators should have responded as defenders of their constitutional roles, not as members of some political team. After all, Republicans and Democrats were coequally deserving of murder in the eyes of some of those barbarians.

I feel guilty, but I had a bad case of shottennfreude

BY GENE WEINGARTEN
WASHINGTON POST WRITERS GROUP

WASHINGTON — There are very few advantages to being old. You are more experienced but not necessarily any wiser than you were at 30, and you have no short-term memory. For example, I will not remember the beginning of this sentence without going back to read it. You are cranky. If you are male, your prostate gland is the size of a weather balloon, and if you are female you are very disconcertingly aware of gravity. My point is, getting old sucks, except for one thing.

I just got the coronavirus vaccine because of some weird national system that seems to give preference to people who are already half-dead. I don’t mean to be morbid or ungrateful, but at 69, statistically speaking, the vaccine will probably allow me to exist only through the first Kamala Harris administration. If they gave it to an infant, we are talking about 80 years. How does this make sense? It’s like one of those nonsensical

ethical conundrums popular in thumb-sucking liberal-arts college philosophy classes: If given a choice, do you save the mother of 12 children, or the single, childless doctor who is on the verge of curing cancer? You save the doctor, moron. The mom is irresponsible, anyway. Who has 12 children?

However, I am glad I got the shot. It was not easy. My girlfriend and I were doing a crossword puzzle online when I got an email alert that 1,500 shots were instantly available in the District of Columbia.

Without any regard for my self-respect, she elbowed me off the computer — she is younger than I am and way faster at the keyboard — and completed the questionnaire requesting a shot without once consulting me, as though she were filling out a veterinary form for a dog. Exactly 40 seconds after hitting “enter” and learning I had an appointment, I got another email saying all spots were filled.

This is not a sane system, obviously. It filled me with joy, but also guilt. I was jonesing for the shot — like a lot of people,

I had vaccine envy. It is not admirable. The Germans probably have a word for it. Call it shottennfreude.

A friend of mine, a pharmacist in a hospital, got the vaccine just four days after it became available, because she was, in essence, a first responder, a heroic person, a good person and extremely deserving of front-of-the-line placement, and I hated her, which filled me with self-loathing.

As a Jewish guy, I feel guilt all the time, even for things no sane person would feel guilty about, such as having nipples that I selfishly do not use for infant nutritional sustenance. Bogarting one of the scarce doses of the vaccine in a store filled with young people, who had to go about their business as yet unprotected, made me uneasy. The only guy older than me was getting the shot, too. He was in his mid-70s, frail-looking and suicidal. I know that because he was talking quite openly about it with the guy who drove him there, who was the pastor of his church. I think this is not funny, but I am tell-

ing you this for two reasons: The first is, it was an act of extraordinary pastoral grace that brought tears to my eyes. As we sat together in the waiting room I was moved enough to interject. “Hang in there,” I said. “We only get one shot at life.”

The second was that as the guy left, and right before I was to get vaccinated, he and I shared a moment. Just a meeting of the eyes. The eyes said, SCORE. I’m pretty sure he learned something about the sanctity of life. I did.

The shot made me a little sick for a couple of days, and I still have to go back for a follow-up later in the month, and that fills me with a particular dread, because my job now is to stay healthy for another six weeks until full immunity kicks in. Huge pressure. Anxiety. I am afraid of choking, like a basketball player who’s made the first of two free throws but still needs to sink the second for the win.

Email weingarten@washpost.com, Twitter, @geneweingarten.