

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

Date and Time: October 3, 2019 at 5:00PM
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 Sexton, Hansen, Heller and Andrews were present.

Approval of Minutes:

Chair Summers asked for a motion to approve the September 5, 2019 minutes. Board Member Sexton motioned to approve and the motion was seconded by Board Member Andrews.

A VOICE VOTE WAS TAKEN: 3 AYES, 0 NAYS, 1 ABS (HELLER). THE MINUTES FOR SEPTEMBER 5, 2019 WERE APPROVED AS WRITTEN.

Communication for Information:

Coordinator Wendy Hobson reminded all that there will be a study session immediately following this meeting on the topic of residency.

Action on Matters Still Pending / New Business:

Chair Summers stated the Board had expressed concern about police and fire testing and what was going on and that some may have read her email to Council Member Hunter; I would still like more questions answered as to how they develop those questions and I'd like to have police and fire actually come in and tell us how they do that. With that, I should probably let Wendy know that I emailed Council Member Hunter and I do have a copy of that email for our information packets. Chair Summers then asked if there were any other concerns by other Board Members.

Board Member Hansen shared that he had read the email to Council Member Hunter and agreed with everything said adding that a particular concern to him was that we have so many exempt positions in the City of Tacoma and I still don't know exactly what the status of that issue is and how that issue is going to be addressed; I did see a brief mention by Ms. Fritz that the commission or the committee that is doing the re-class at this point is going to look at that issue; but I don't

know the details of that; what instructions they've been given in that regard and how they intend to make determinations in their study; without that knowledge, I don't know whether or not this is actually going to happen so that is a really big concern to me and some other members of the Board.

Chair Summers added along with that she has already met with the Mayor, Deputy Mayor and the Human Resources Director shortly after I wrote that email. Exempt positions were something that was brought up and the Human Resources Director did say that he would be at our November meeting to tell us a little bit about how he thinks it is going to come out. I am asking that that be done; that we see him in November so we can ask more of those questions.

Board Member Sexton apologized for interrupting but stated something just came to mind; are we seeing police and fire testing and the classification issue as the same issue or two separate issues? Chair Summers responded stating she sees these as two separate issues.

Board Member Sexton asked if we were going to be scheduling a separate meeting on police and fire testing. Chair Summers indicated that is what she was asking the Board; I would like to see a meeting on the police and fire testing matter. Board Member Sexton moved that there be a separate meeting on police and fire testing. Chair Summers asked if there was a good time for this meeting.

Board Member Andrews asked for clarification on "a good time." Chair Summers said she was thinking next year; we are already in November, and December is never a good time; the other thing I was thinking is we could have a meeting in January; not necessarily the first Thursday but the second Thursday of the month so we don't miss our January meeting. That is what I mean by timing; is there a good month for this board to address the police and fire testing.

Board Member Andrews indicated she would definitely support after the first of the year as people have a lot on their calendars. Board Member Heller concurred stating especially if we're moving it that far out in advance they should be able to coordinate the arrangements and logistics as needed; if we put it too close it's going to be difficult to do that.

Chair Summers hearing no further comments from the Board indicated she is hearing that the police and fire testing be put on the agenda of the January meeting and that we schedule that January meeting for the second Thursday of the month.

Board Coordinator Hobson asked for clarification that this would not be a study session and that it would be part of the regular meeting. Chair Summers confirmed that is correct.

Ms. Hobson also asked for clarification on the appearance of HR Director Gary Buchanan stating he was under the impression he would be appearing in a study session. Chair Summers indicated she wanted him prepared for the meeting.

Human Resources Director Report:

Assistant Director Fritz indicated she is reporting this evening on one Waiver of Competitive Exam and one List Abolishment and also providing an update on our previous discussion concerning the Classification and Compensation Study.

Ms. Fritz also shared that following our last meeting she sent a follow up email that included an update on what she had reported on at the previous meetings since we had some folks that were not here. The one outstanding item from that update was regarding access for the Board to view the internal Classification and Compensation website; it appears we are not able to provide direct access for the Board to access that website but I can provide you with all the information that is on the website and email you any future updates if that is something that would work for you.

Board Member Hansen said he was unsure of what form the information would be provided; if it would be a summary of the information that is provided on the website or would it be a verbatim...

Ms. Fritz indicated that likely it would be in a pdf document so that the Board could see everything on there as it is and would provide the information in an email or in hard copy, whichever is preferred. Board Member Hansen repeated so, it would be the same information as is on the website; they just can't allow us access to the site itself because it contains other information? Ms. Fritz said it is not that; it's just figuring out how to make it work. Basically, it's everything that is on that website; I just can't give you direct access.

Board Member Andrews asked for clarification on whether or not the website could be accessed from back there (pointed to technical room in rear of Council Chambers). Ms. Fritz confirmed it can be accessed when a City of Tacoma employee is logged in since it is an internal site. Board Member Andrews added that her thinking was that if it was something we wanted to see relative to the site itself that someone could bring it up on these larger screens to allow us to see what it looks like initially.

Ms. Fritz indicated she could do this and could also bring it up in a study session as well; whatever the Board prefers.

Ms. Fritz added that they are still reviewing the current structure and all of the position description questionnaires that were submitted so there is nothing new to update the Board on since the previous update.

Mr. Fritz shared the details of the List Abolishment for Program Development Specialist.

Human Resources Analyst, Jessica Madrigal stepped up to present a Waiver of Competitive Exam for Program Development Specialist, ChiQuata Elder. Diane Powers and Andreta Armstrong of the Office of Equity and Human Rights accompanied Ms. Madrigal in presenting this request.

Board Member Sexton moved to approve the Request for Waiver of Competitive Examination for ChiQuata Elder and the motion was seconded by Board Member Heller.

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

ChiQuata Elder approached and thanked the Board for approving this waiver.

Board Member Sexton added that Ms. Elder should not be thanking us; we should be thanking her and wished that they were handing her a medal or an award; or something much more; this is very well deserved and long overdue apologizing to her that it took so long to get this far; he added he is proud, honored and thrilled to be here with her.

Board Member Hansen echoed Board Member Sexton's remarks; the City is very lucky to have her as an employee. The City is really in crisis and it's great to have someone of her caliber working here at the City.

Chair Summers thanked Ms. Elder from all of the Board.

Comments by the Board:

Board Member Hansen stated we were going to have a study session tonight and of course we can still have it; but I would like to see if we can resolve this issue more quickly and as we all know and have talked about before, the Charter requires residency and that was part of the Charter review that happened a couple of years ago. The Charter was put before the voters and the voters decided to vote on and approve what was in the Charter; the Charter does require a residency, it's very clear. So, I would like to make a motion to remove the blanket waiver of residency. I know that I have done some quick research with regard to exceptions....Chair Summers asked Board Member Hansen to hold.

Chair Summers asked if there was a second to this motion. The motion was seconded by Board Member Sexton.

Board Member Hansen continued; it appears that we cannot require residency for firefighters or police officers; there is also a statute that states that the city can require residency but cannot terminate someone because they are not living in the city. An obvious issue the statute is addressing is that if they are a resident at the time they are offered a position; that is a valid requirement, however if they decide to move at some time after they were hired, could be the next day, could be ten years down the road, they cannot be discharged for doing so. That is what I found in my research and there may be additional information that Jennifer wants to share.

Jennifer Taylor, Counsel to the Board asked to be heard and indicated this item was not on the agenda so she was not prepared to address the Board and provide them with a full legal analysis. There are a number of cases that also impact residency requirements and my analysis has been

for years and is consistent with what the City Attorney has advised and the HR Director is my understanding is that neither before nor after hiring can you require somebody to be a resident; that is the Egger v. Seattle case out of 1973. You are absolutely correct that there can be no residency for fire or police; that is explicit in the RCW. My analysis of the number of cases that have interpreted residency requirements is that the only date that is really applicable and enforceable is on the date of hire.

Board Member Hansen asked for clarification of Ms. Taylor's previous statement regarding the date of hire. Ms. Taylor reconfirmed you can require on the date of hire but you cannot require before applying, as an applicant; you can't terminate them or discriminate against them if they have moved after date so it is really only enforceable one date and time. Ms. Taylor added that she was the Board's advisor at the time the blanket waiver was imposed and one of the reasons was that there was a blanket waiver which is a corollary for the unrepresented that has been in effect for at least twenty years that was imposed by the City Council. I recall that when Joint Labor came before the Board, they supported the blanket waiver. Ms. Taylor indicated she would be happy to provide a full legal analysis as the Board's legal advisor and would like to do so before the Board takes this action; you can take whatever action you want, I'm just asking as your legal advisor so that I can fully advise you so that the Board can weigh this decision with full knowledge of the law and what your legal advisor's advice would be.

Board Member Heller proposed a motion hoping that it be taken as a friendly amendment or motion to table this motion to a date certain of our next scheduled meeting so that we would have the opportunity to have our residency study session; so that Jennifer is able to bring us additional legal counsel and so we have the time to hear from and coordinate Joint Labor as well so that we can consider all these things before we take a vote at the next meeting.

Chair Summers confirmed that the motion was to have this matter come before the Board at the next meeting when the Human Resources Director will be coming; so the date certain would be our November meeting. Board Member Heller indicated yes.

Board Member Sexton added that he didn't think removing the blanket waiver goes far enough; the blanket waiver was sold to us a temporary solution; it was never; those of us on the board that allowed this, voted for it, supported it; at the time we were told it was a temporary solution but I don't think it goes far enough. Our past HR Director had a solution that for whatever reason we never got around to; the point system, giving points to a resident and I think we need to look at that; that's what we need to be doing besides taking away the blanket waiver but I don't think it's enough.

Board Member Hansen added he thinks the Board should have an opportunity to study this further; I do think that I have done thorough research but if you do have a different legal opinion and would put together a memorandum, I would appreciate getting case names and cites so I could take a look at those before the meeting. I doubt in the real world that somebody is going to establish a residence for one day just to get a job with the city; most people are already residents; they're not going to establish a residence and I don't know if that is humanly possible.

As a practical matter, what the residency requirement would do would be to grant that preference to someone who wants a job with the city and more often than not that's going to be someone that has resided in the city for at least a few months; so I don't think it's an issue that this person only had to be a resident for one day; like I say, it's probably impossible for someone to do that anyway. I think it's an issue that we shouldn't brush off and that we should take some time to consider everything and I agree that Joint Labor should have a voice in this as well as the Human Resources Department to give input. When you establish a policy or an act of regulation or statute or whatever what law making bodies do is have hearings to get information before they make decisions; even though we are not that formal it is always best to have as much input as possible before we make decisions.

Ms. Taylor advised she will be happy to provide a memorandum to the Board prior to the meeting and also has information in terms of the background of how the blanket waivers were adopted; there was one that was a temporary time limited one and then there was a subsequent meeting where the board just extended it indefinitely; so the temporary one was extended by the board upon a motion by the board. I will provide the background that I have from my notes and the minutes and also would be happy to provide current research, previous minutes and I'll to provide this timely before the next meeting.

Board Member Heller added there was another way this was being looked at and believed it was prior to our current HR Director; that was to also consider another bite of the apple to have a residency preference similar to a veterans preference and we asked to have some research and perhaps a draft proposal for us and I think there was staffing changes and for a variety of reasons that ball was dropped; I would also like information about that; I think there is more than one way to slice this to get what the board's intention is. I would also say that back to intent; although this residency requirement was set in place in 1954 that there have been multiple, multiple, multiple, times when in my recent memory in the last ten years at least twice that we've had Charter reviews and both times this issue has been before the table to make a change in the residency requirement in the City Charter and both times it was decided to leave the residency requirement in place. That intent of the City of Tacoma people and voters really does weigh heavily on me as a Board Member.

Board Member Sexton thanked Board Member Heller for going first and saying everything most everything I was thinking and articulating; so much better than I was thinking. That plan that we had kicked around before for some reason kept get kicking down the road; I always thought of it as Joy's plan, the previous HR Director. There was a lot of work done on that and one of the things that; one of the conversations we had when we looked at this before is retention; I don't know if anyone is looking at that now but I hope that if anyone is looking at that know that it is out there.

Chair Summers advised the only thing before the Board at this time was the motion to table this until the November meeting.

A VOICE VOTE WAS TAKEN: 4 AYES, 0 NAYS, 0 ABS. THE MOTION TO TABLE THE ISSUE OF RESIDENCY UNTIL THE NOVEMBER MEETING PASSED.

Chair Summers stated clearly we will have the blanket waiver before us in November; and we will be asking Joint Labor. With that, is there anything we were going to discuss at the study session that hasn't already come up; is there anybody working on residency preference? Ms. Fritz indicated there wasn't anybody currently working on it but she had reviewed everything she could find on it and understands what some of the potential options are. Chair Summers said so that means it is nowhere. Ms. Fritz agreed. Board Member Sexton asked about options. Ms. Fritz added in preparation for this meeting she had reviewed everything she could find about past discussions so she has an idea of what the past has held; I would like to hear from you all about why this topic has resurfaced and figure out if there are things we can do; brainstorm ideas on how to get the result that we're looking for. A few of the Board Members laughed at this response provided by Ms. Fritz.

Board Member Heller asked for a brief agenda of what was planned for the study session. I want to know what it is that we're going to be talking about tonight at this study session because I wasn't anticipating a brainstorming session so I was hoping there would be a presentation or data presented to us. Ms. Fritz explained that she did not prepare one as she did not know what the purpose of this session was and just focused on getting a clear understanding of what happened in the past. Chair Summers asked if it is clear what the concerns are about the Board and do we even have to have a study session tonight or would you like more time to prepare having heard some of the concerns around the table? Ms. Fritz indicated she has a better understanding.

Board Member Hansen asked if we vote in November are we going to have a study session where all interested parties can provide information. Chair Summers indicated that information will be provided from legal and Joint Labor will have an opportunity to participate; that she didn't anticipate going into a study session to just simply talk and yes, we will have a vote at the end of that; but it will be determined by the comments and people coming to the Board not in study session fashion; we don't vote in study session.

Board Member Hansen asked if the Board will receive information by email before the meeting. Chair Summers responded that the Board will receive information from Legal and asked if he'd prefer information from Human Resources if they have written material they'd like to provide. Board Member Hansen indicated this information would be helpful and if others had information to share prior to the meeting that would be helpful.

Board Member Andrews indicated for her it is understanding the flow of information, relative to when we're going to have an opportunity to review it, discuss it, have our questions answered and then have that happen before the meeting; then is there a study session after the meeting. I am just trying to get the information flow relative prior to bringing this forward and the various steps.

Chair Summers stated the information that we are requesting is partially from our Legal Department, partially from the Human Resources Department and partially from Joint Labor who

was before us when Amy was Chair; did you have a hearing on residency? Ms. Taylor indicated yes, the Board did; in fact the blanket waiver was passed in Room TMB 16; it was passed on the record because we were over in the other building and I remember I was there; it was done on the record. Chair Summers asked if they could get that record. Ms. Taylor indicated she would coordinate with Wendy and that it was her recollection that the draft she had prepared for the Board was not voted on but that the Board simply agreed to extend the waiver already in place. Chair Summers asked about the ability to get the annual waiver; this was part of the concern here is that we are not doing our job by not at least looking at it annually and seeing what has happened and I think that might address more of the concerns of the Board.

Ms. Taylor advised there are a number of options that the Board can look at; Board Member Heller mentioned a discussion about preference points. The Board can also look at withdrawing a blanket waiver and imposing a waiver on a limited basis and then revisit it once a year; the standard that the Board would be looking at is whether or not hiring this person who is not a resident is in the best interest of the City so the Board may want to look at time limiting the waiver that is currently in effect. I will look at everything I may still have and will do a background analysis on how we believe we got to this point and in terms of advice I've given to the Board prior; I will reiterate that and will get this information to the Board sometime in the week prior to the November meeting.

Board Member Andrews added as the newest member of the Board she has no knowledge of what they are talking about; has no position on the issue. For her, having the history, having it explained is helpful.

Board Member Heller stated perhaps she was hasty in setting a date but did not want it to be dropped again; would change her own motion that already passed and that we set it for December or January so we have time to do all of this; it's important.

Chair Summers accepted the amended motion and stated we will move this to the December meeting and that will take care of information and having time to read it. The Chair also requested from Human Resources that there are other jurisdictions that do this and if possible get the residency waiver; we had several examples presented to us in the past and again the reason this keeps poking its head up over and over is we never get a resolution.

Board Member Heller shared having had this residency waiver in place for a number of years has potentially impacted our parity numbers and I would like to see; and I know we get the emails annually with your ADA numbers but I would like to see a little bit more information about where we sit in accordance with parity numbers. I think that from a diversity, equity and inclusion perspective that having a residency waiver sometimes impacts those numbers and can have a negative impact there. Additionally, I would say to the Board that prior to having a residency waiver we had more of a bifurcated system where although we did not have a blanket waiver, we had a system where if it was an entry level position; if one of those lower level positions would have a residency requirement where you have a choice candidate you could come to the Board for an individual waiver; there were also recruitments where the waiver was given based on

having it be on a niche market where you knew it needed a much wider pool so the Human Resources Department came to us and requested a waiver prior to even doing the recruitment. The Board was more actively involved in whether or not it made sense.

Ms. Taylor asked for clarification on the Board's request for HR to come back with examples and whether or not they wanted examples of other jurisdictions with a preference systems or the waivers of other jurisdictions. Chair Summers confirmed they would like the preference systems of other jurisdictions.

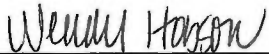
Chair Summers advised we are canceling the study session and moving this to the December meeting. Hearing no more comments from the Board we are adjourned.

Meeting adjourned at 5:59PM

ATTEST:



Beckie Summers, Chair



Wendy Hobson
Civil Service Board Coordinator