



Tacoma Civil Service Board  
Meeting Minutes

**Date and Time:** September 20, 2021 at 5:00 PM  
**Location:** By Zoom teleconference  
**Chair:** Beckie Summers  
**Coordinator:** Wendy Hobson

**Call to Order:** Chair Summers called the meeting to order at 5:03PM. All board members were present with the exception of Board Member Heller, who was excused. Also present was Deputy City Attorney Martha Lantz.

**Chair Summers:** I have been sent a script to tell people how we're going to go through this.

**Board Member Hansen:** Can the script be sent to all of the board members?

**Chair Summers:** I'm going to go through the script and if there are questions or concerns, I would like people to feel free to ask them tonight. Um, technical difficulties will have to be dealt with on the night of the hearing. But we do have Human Resource Director Fritz who will handle all of that. And I know she is very confident in that way.

**Deputy City Attorney Martha Lantz:** I'll send it. Wendy can I send it to you and then you distribute it to the... . And, Beckie, I did... I'm sorry we're being awfully informal. I'm sorry, Chair Summers, I did make the two changes that you requested, so I will save those changes and send it to Ms. Hobson who can distribute it.

**Chair Summers:** Ok. There's one other change that I would like to ask you to put in there, and that is please, when it asks that, um, that witnesses be called and that they state their names – please also ensure that the witness answers out loud.

**Deputy City Attorney Martha Lantz:** Oh ok.

**Chair Summers:** I have a horrible time with the other word, so we will change that.

**Deputy City Attorney Martha Lantz:** Ok. Got it. I'll fix it.

**Chair Summers:** And the other one was: when we go into the executive meeting, we recess. We do not adjourn.

**Deputy City Attorney Martha Lantz:** Oh yes, ok. Recess. Ok. Sure. Alright, I'll fix that. It might take me a second or two while we are talking to get that done, but then I'll have Wendy send it out.

**Chair Summers:** Not a problem. Because there may be things that others come up with. Like Eric, he just looks like he's ready to come up with something. Um, yes, this is... I'm going to be more informal tonight because are rehearsing this. I want people to feel free to ask questions and not be so concerned about protocol. So, thank you Martha for making that Beckie mistake and we'll just continue with that.

**Human Resources Director Shelby Fritz:** Chair Summers?

**Chair Summers:** Yes? Yes Shelby?

**Human Resources Director Shelby Fritz:** We've lost Board Member Andrews. There... she's coming back. I was concerned we lost Ellen. So...

**Chair Summers:** We all got lost. It's Dan's fault. I'm sure of it. Ellen, we can see that you're back, but we have no video and you're on mute. Oh, there you are!

**Board Member Andrews:** I got kicked out

**Chair Summers:** We all got kicked out.

**Board Member Andrews:** Well, I wasn't alone then.

**Chair Summers:** You were not alone. And I was going, "What is this??" Yeah, so it was pointed out that I have been sent a script to tell people how we're going to go through this and Eric asked that it be sent to all of the Board Members, and so it will. I'm going to go through the script and if there are questions or concerns, I would like people to feel free to ask them tonight. Um, technical difficulties will have to be dealt with on the night of the hearing. But we do have Human Resource Director Fritz who will handle all of that. And I know she is very confident in that way.

So I will begin by convening the hearing after we have opened the meeting and a role call has been taken. And I will start by saying "The Board will now convene the appeal hearing for apparent Mr. Zebulah Farrow and Mr. Farrow appeal dated May 26, 2021 states that he was wrongfully terminated from his position with Tacoma Power on May 19, 2021 and seeks remedy of reinstatement, including wages and benefits. The state of basis of the appeal is the violation of Tacoma Municipal Code 1.24.940 for failure to show cause for termination. Due to the ongoing emergency related prohibitions of in-person meetings of the City of Tacoma's governing bodies and this Board's commissions and committees, his hearing will be conducted remotely using zoom. This hearing is being recorded and minutes are being taken. This proceeding is part of an open public meeting and members of the public and other interested parties are welcome to attend this proceeding, but there will not be a public comment period. Only the parties, the representatives, witnesses and Board Members, and any staff members or others called upon by the Board will be allowed to speak in this proceeding. So far good for everybody?

**Everyone:** Yes.

**Deputy City Attorney Martha Lantz:** And I did... I'm sorry... I did send it to Wendy, so it should be coming to your inbox soon if you are interested in multitasking and following along.

**Chair Summers:** Ok. Do not use the chat function to make any comments or statements during this proceeding. If you have not been called upon, but have a need to address the Chair and the Board, please use the "Hand Raise" function. Ms. Fritz will be monitoring the Zoom function and will assist the Chair in making sure raised hands are acknowledged. Everyone, including the parties, representatives, witnesses, Board Members and staff must mute their audio unless speaking. As Board Chair, I reserve the right to adjourn or suspend this hearing if it is disrupted in any way. I further reserve the right to adjourn or suspend the proceedings to address any audio or video issues, or other technical difficulties. Not that we ever have any of those.

This matter will proceed following the Board's rules of procedure for adjudication. Each party shall have the right to call and examine witnesses and cross-examine opposing witnesses and to introduce exhibits and documentary evidence. The exhibits and documents included in party's pre-hearing submissions to the Board are presumed admissible at this hearing. Admissions of other exhibits and documents not already submitted is subject to the Board's discretion and shall require a showing that the evidence is offered for impeachment or rebuttal purposes, or that a reasonable cause prevented the pre-hearing submission of the exhibit or documentary evidence. I'd like to pause here. We do not, in general, accept information on the day of the hearing. So, if we choose to do it this way, Martha has revised it so that we go into Executive Session to decide whether or not we feel that it is either impeachment, rebuttal, or that there was such a cause that prevented it from being given to us before the hearing. How does the Board feel about that? As far as getting information on the night of the hearing.

**Board Member Sexton:** Madam Chair?

**Chair Summers:** Board Member Sexton.

**Board Member Sexton:** Well, any new information.. would... would we receive it prior to the hearing? Or would it just, uh, be on the Zoom? During the hearing? Would we receive it prior to the hearing?

**Chair Summers:** No, and Ms. Lantz can you address that?

**Deputy City Attorney Martha Lantz:** Of course, yeah. So, on the script, the part we were just reading through was the statement from the Board Chair that it was subject to the Board's discretion. And then, as Beckie was saying, there's a part on the script, and I put it on the end. It's on the second to last page, in case you need to use it. I didn't want to drop it in the middle here and have it be distracting if we didn't need to use it. But, the process that I came up with as a suggestion was that the Board Chair would advise that the document that the party wished to submit be emailed to Shelby, with her

address with the subject line of the City or Appellant's proposed Exhibit Number whatever-it-is. And that the Chair would tell them to begin with the number following their last pre-submitted exhibit. And then Shelby would receive it, and would place the document on the screen for the Board to consider admissibility. So, you'd be looking at it, in answer to your question Dan, you wouldn't have gotten it ahead of time. I mean, you guys got the notebooks with everything that's been pre-submitted. But, these are things that they would be trying to offer on the day of. And, as we've been talking about, they have to have good reason. It has to be either for impeachment, for rebuttal, or on a good cause showing as to why they didn't submit it with the pre-submittals. So, at that point, um, the Board Chair would ask the party to explain why wasn't it included, why are you offering it, explain that to the Board. And then, the Board Chair would call the Board into Executive Session for the Board to consider whether the party offering this exhibit has met the standard with this particular document and whether the Board actually wants to consider it. And then you'd come back out of the Executive Session, and the Board Chair would state on the record that proposed Exhibit #whatever is either admitted to the record and may be considered by Board Members. Or if you determined that the standard wasn't met – the statement would be "The Appellant's or the City's proposed Exhibit # blank is not admitted to the record and may not be considered by Board Members in their deliberations. So, that was kind of a long answer. But that's the process that I kind of came up with and Beckie has reviewed it. If anybody has any better suggestions, um, welcome to hear them. But, hopefully, there won't be a lot of these post deadline submittals. But, the rules do allow it.

**Chair Summers:** Well, the problem that we've had is that the City is notorious for this. It is not the Appellant that.. and um, unfortunately the attorney that we had before is one of those that.. he ... I don't want to encourage this and if there's any way of just leaving this out, I would feel better about that. I would like for the Board to know that we have a process and that we can take it to executive session and decide or not decide, but I just assume take this paragraph out, and the end that talks about us taking to executive session because I don't want to encourage last minute submissions to the Board on the night of the hearing. Eric?

**Board Member Hansen:** Madam... (chuckle). I am like the kid in the classroom going.. I, I really like the way Ms. Lantz handled this. And, obviously, I mean, before the hearing the parties can't anticipate what a witness is going to say and whether or not that statement needs to be impeached. And, also, they can't anticipate... they can not anticipate the evidence the other party is going to put on, they may have an idea but they don't know exactly what they are going to put on. And so, if they have a document that they can use to impeach a witness' statement and would go to their credibility, or a document that they did not, uh, antic--- for rebuttal only and I'm saying for rebuttal only, not for their case in chief. But for their rebuttal because they didn't anticipate certain evidence coming out in the other party's case. Then I think that's perfectly reasonable to allow them to do that. And then we have the question of, if the document is not offered in rebuttal or for impeachment purposes, then why was it not produced prior to the hearing. And I think they have a very high bar in that situation or for the document to get into evidence because I think they have to come up with a pretty good reason why they did not provide that document before. So, I, I, like I said, I think the way Ms. Lantz structured this I think it's a very good procedure. And it's procedures that most of the

Superior Courts use and the local counties. And so it conforms to, you know, the way things are usually done. So, I really... I would vote in favor of, I don't know if we are voting on this or not, but I would say that we should leave the paragraph in.

**Chair Summers:** Ok, I'm not saying to take it out entirely. I like that, and Martha's already done this, put it at the end. And again, our bar is not as high as the Superior Court and other courts in our jurisdiction. And we do not have to meet the levels that they do of evidence. And, I would prefer not to have submissions, have to deal with them, and then go into executive sessions, have to deal with them, and then have to come back. If we're going to do it this way, they can submit it and tell me why they are, and I would like to do this in executive session at the same time we are making the determination. I do not want to slow the process down by every submission being argued and then having to deal with it in executive session and then come back. That's what I'm saying. This is a way to slow the process down. I'm not willing to do it. If it's at the end and we go into executive session and decide on all of them, I'm comfortable with that. If we need to stop the process over and over again to get those submissions looked at and discuss, I'm not willing to do that. It feels interruptive, it feels like.. um, not very helpful and I'd like to have it at the end and decided with our determination.

**Board Member Hansen:** Well, you know, Madam Chair, that makes sense to me. And, uh, what we could do is: we could go into executive session for our decision making and then initially we could decide whether or not that document should be part of the record. And if we do decide at that point that the document should be part of the record, then we can consider that document in our decision-making. So, we decide that first and then we will not or we will consider the document depending on how we rule. So, I think that's a good... but Ms. Lantz has an idea, so I will let her have the floor.

**Deputy City Attorney Martha Lantz:** Well, with respect to... I'm just a little concerned that if they are offering a document for impeachment or rebuttal and we don't rule at that moment that it can come in or not, then, you know, you'll get a whole bunch of questions that are in colloquy, or something like that. If you don't, if you say at the end, "No, we don't really think that was properly offered for impeachment." Then you're going to have to sort of slice out, you know, not just the documents wouldn't be considered, but the entire discussion and the transcript surrounding that. And then, sort of the same, if they are trying to offer not for impeachment or rebuttal, but trying to say, "I didn't get a chance to add reasonable cause for not submitting this sooner." If they don't know whether it's going to be in or out of the record, you know, that seems like it could impact closing arguments, it could impact the direct and cross examination without certainty as to whether the document was admissible or not. Um, so that's kind of what I was thinking you'd do it each time. I understand the disruptive factor for sure. It's jumpy, but I feel like you'd probably want to resolve each one as they come up. But, another way.. and again, this is just a question for the Board and the Chair, but I think that the Chair has authority herself to make those rulings without convening an executive session. You know, if that's something that you want to not do as a full Board, but as to have the Chair exercise that authority, that might make it move more quickly, but

(Deputy City Attorney Martha Lantz and Chair Summers both speaking)

**Board Member Hansen:** Ok. Well, you know, what I was thinking is: we could do an.. they could do an offer and approve. Where they would offer the document for admission and then... and then, um, the Chair, Beckie, would say that we're going to rule on that later, but you can go ahead and ask questions about the document. Kind of like an offer/approve. And then they can go ahead and fully develop the record and at that point we can decide whether.. and then at the end we can decide, as part of our final decision-making process, whether the document gets into the record. So I mean when you have a hearing going on that a record is made of it, then as you know, you can have an offer approved during the hearing even though ultimately they may not be part of the record.

**Chair Summers:** Ms. Andrews?

**Board Member Andrews:** This is an appeal, correct?

**Chair Summers:** It is.

**Board Member Andrews:** And in this appeal are both sides represented by counsel? Are both sides represented by attorneys?

**Chair Summers:** At this point, we have the City Attorney Mr. Goulding representing the City and we have Byron Allen from IBEW representing the Appellant.

**Board Member Andrews:** In this particular process, wouldn't each of those representatives be the ones to challenge the appropriateness for accepting it for purposes of impeachment or rebuttal or wanting to know the explanation right there?

**Board Member Andrews and Board Member Hansen both speaking.**

**Board Member Hansen:** I'm sorry Ellen.

**Board Member Andrews:** Isn't that part of the process? Wouldn't they be arguing those points right as part of the process?

**Board Member Hansen:** Well, sure, I mean, I'm trying to be a little more informal so that we can get through this a little quicker, but yeah, I mean, if they offer the documents and the other side doesn't make an objection, then, I mean, then yeah that becomes part of the record. But if they do...

**Deputy City Attorney Martha Lantz:** Although, I just would say that in your... and I was trying to script this based on the rules of adjudicative proceedings. Um, you're absolutely... of course I agree with you Eric, and you too Ellen, that that's how it should work. But, the particular rules that you all have adopted for these proceedings, they say that admission of exhibits or documentary evidence not included in a pre-hearing material shall be subject to Board discretion and shall require a showing by the offering party that the evidence is offered for impeachment or rebuttal or that reasonable cause prevented pre-hearing submission of the exhibit or the documentary evidence. So, that's

what caused me to conclude that it's on the Board. The emphasis is on the Board to hold the offeror responsible for proving this upfront so you can exercise your discretion. Which seems... you know, again... I wasn't with you when these rules were drafted. I asked Jennifer about them too and she didn't remember exactly how they came to be either, but they say what they say. I know that they are treated as the rules of the road... so.

**(Chair Summers and Board Member Hansen both speaking)**

**Board Member Hansen:** So, they would offer the document in as evidence and then Beckie would say "hey, wait a minute. We didn't get this and so we're going to... you can make an offer of proof and ask questions regarding this document, but we're going to make a final decision in our final decision-making process as to whether or not that document will be part of the record.

**Chair Summers:** Or what we could also do is when they offer up their proof, we could, as a Board, make a motion to accept or decline.

**Board Member Sexton:** Chair could just say this is not allowed.

**Chair Summers:** Dan just keeps wanting to make me the dictator. I prefer not to be that, so.. It's the Board's discretion...

**Board Member Sexton:** If something is outrageous enough to not get by the Chair, you know, we don't have to be consulted.

**Chair Summers:** Um, I am fine with whatever the Board chooses to do, but please know: this is totally at the Board's discretion. So, the Appellant does not get to argue that it's not for rebuttal and that it's not for impeachment and it's not for because there wasn't enough whatever the cause is for them having not submitted it earlier. This is really only going to be determined by the Board. No one else. And, so.. I'm not going to have a lot of discussion about it at the meeting and if somebody should try to refute it, whether it be the City or the Appellant, that argument is not going to take place because it is totally at our discretion. I want people to understand that and be clear on that. Ok.

**Board Member Sexton:** Madam Chair?

**Chair Summers:** Board Member Sexton.

**Board Member Sexton:** I am, I think I am in agreement with everybody. This all sounds really, really reasonable to me. My only concern is: Martha, when you say each time. That worries me.

**Chair Summers:** That worries me too, Dan.

**(Board Member Sexton and Deputy City Attorney Martha Lantz both speaking.)**

**Board Member Sexton:** If it's continuous, you know, if we got like a mile-high stack to go through and if it's one after another, we've got a problem. And, I think, that if I was Chair, I would not allow any more of that. But the procedure... it sounds, it sounds fair and reasonable to me. Except if they try to misuse it.

**Chair Summers:** Well, and there is one side that tends to do that more than the other. And, so, I'm concerned about that as well. And that's why I bring it up. If I didn't think there was a problem, I wouldn't have brought it up, but that's why I stopped here. Because it has been a problem in the past. Go ahead Ms. Lantz.

**Deputy City Attorney Martha Lantz:** I'm sorry, I really don't mean to interrupt, it's hard to.. it's hard...

**Chair Summers:** I know, I know.

**Deputy City Attorney Martha Lantz:** Well, I am hearing two different approaches. The approach I suggested was doing one and at time, you know, as they come up. And take the time to through each proceeding, each one, you all, you know, could go off the record for a second... discuss amongst yourselves, come back and say "the person who offered the, whether it's the City or the Appellant, whoever offered this made the showing, it's either in or it out. " You could do that each time, or as Board Member Hansen suggested and, you know, there's no prohibition against to just say "we're reserving our ruling on this. You are presenting something that is not a resubmittal and the Board has the discretion to reject this as inadmissible and we're going to reserve our ruling on that. Tell us why you think this is admissible. Is it for rebuttal, is it for impeachment, is it because you didn't... you know, there were good-faith circumstances that prevented it from being filed sooner." Put that on the record and then tell them, and I can... if this is what you want to do, I'll rewrite the script so that you have that Beckie. But, um, you know, go ahead and talk about it, but be warned that if at the end of the day the Board decides it's inadmissible, it's going to be stricken from the record as is any conversation or testimony about it. Because you won't be considering it. So, that's kind of the reason I thought it'd make sense to do them one by one, so that you didn't end up with having heard a lot of extraneous evidence that you are sort of going to have to un-hear with regards to these documents. But, either way is fine, so just whatever you guys thinks works best and is the most efficient, and is going to flow. I am more than happy to write the script to accommodate that.

**Board Member Hansen:** I have one more thing to add to that, they should be informed that they can go ahead and ask questions about the document, but we're reserving our ruling. So, they have a chance to develop a record regarding that document. Um, that's the only thing I would add to that.

**Deputy City Attorney Martha Lantz:** So, is that what I'm hearing... that's the way you want to go? That if, should this come up, that you won't take a break and rule on each piece of offered evidence, but that you'll allow the record to be made and then make a decision at the end.

**Chair Summers:** Yes.



**Deputy City Attorney Martha Lantz:** Ok. Then I will, I will fix that accordingly. Um, I can't do it right now because it's a little more drafting than I can do on the fly.

**Chair Summers:** Ok, and also does it need to be....

**Deputy City Attorney Martha Lantz:** At the beginning here?

**Chair Summers:** At the beginning here.

**Deputy City Attorney Martha Lantz:** No. I mean, I just put it there because I was kind of trying to track through the rules. Which, by the way, I just added to the email that Wendy sent you. I just sent everybody a copy of those rules so that you have the at the ready. But, I can absolutely pull this, pare this back, so we'll only address it when it comes up.

**Chair Summers:** Ok.

**Deputy City Attorney Martha Lantz:** I do think you should touch on it just a little bit, not to encourage it....

**Chair Summers:** Yeah, make it real brief. I will also say we will decide this matter in Executive Session as we determine the outcome.

**Deputy City Attorney Martha Lantz:** Ok. Yes, I think that's good.

**Chair Summers:** Ok. Thank you.

**Board Member Andrews:** So, I have a process question of a different type. If when we go into Executive Session, and Shelby's going to put us in a breakout room and that will be explained what Executive Session means in Zoom context.

**Chair Summers:** Yes, that's exactly what will happen. And part of the, part of what is in the script says that the coordinator comes back with us, oh I see she didn't even flinch. She's never had to come into our Executive Session meetings. We have to have the attorney. The motion is made by the Board. Anything that we do behind the closed session, we have to come out in public and make the motion in public. So that can't be stated in the Executive Session. We have to be very careful of what we do back there and everything that is done has to be disclosed in the open meeting. Yes, Dan?

**Board Member Sexton:** Uh, I didn't have anything. I had something earlier, but I forgot it already.

**Chair Summers:** Ok, Ellen... does that answer your question?

**Board Member Andrews:** It does.

**Deputy City Attorney Martha Lantz:** Just to be ... sorry, just a clarification, it does say in the rules that the coordinator can be included which is why I put that, but if there's no reason, then I took that right out. So, Wendy is off the hook.

**Chair Summers:** Ok. I told Ms. Fritz before this began that Wendy would make a face and she did nothing. She just went along with it, because she's never had to go to the Executive Session before. But, you are a true trooper. That you would come back there with us, but you don't have to, so we're not going to make you.

**Deputy City Attorney Martha Lantz:** Well, in real life, maybe there would be cookies or something back there.

**Chair Summers:** Yeah.

**Board Member Hansen:** Yeah, we'd need food like pizza back there. Well, anyways, I just have a process question too. What if the... and I don't know as far as the technology how this would go down. So, if one of the lawyers grabs a document, you know, a witness makes a statement and one of the lawyers says "gee I can impeach with this document," so they grab a document out of their briefcase, or whatever. Is there a way then that, um, that you can project that document onto the Zoom screen? Ok. Martha is saying yeah.

**Deputy City Attorney Martha Lantz:** Yeah, that was what we scripted out that they would be instructed, if it comes to this, if they are trying to offer something. Then we'd go to the alternate instructions. And I'm going to change them up a little bit, but it would still be the same. They would be instructed to number the document as Exhibit whatever the next one they were on, email it to Shelby at her email address and then she would put it up on the screen. And the Board would be able to look at it for as long as you want.

**Board Member Hansen:** That's the question that I have though. In order to email it they would have to have a scanner, say they are just right there in... what if they don't have a scanner? I guess they would be in their office or their home or whatever. You know, in the work that I've done, I have been surprised at how many people are working at home without scanners and that's just kind of a shock to me, but .. yeah, I don't know.

**Chair Summers:** But they also have their cell phones available, they can always take a picture and email it to Shelby.

**Deputy City Attorney Martha Lantz:** Uh huh.

**Board Member Hansen:** I see, ok.

**Deputy City Attorney Martha Lantz:** Yeah.

**Chair Summers:** So, there are other ways around that other than scan it and send it. But they do have to get it to Ms. Fritz for us to even look at it.

**Board Member Hansen:** Yeah, well this whole thing, I mean... this Zoom thing, and whether or not we are ever going to get out of this... this kind of world, who knows. I know it's just a headache.

**Deputy City Attorney Martha Lantz:** That is a good point though, so I know we can... you know, if they say they don't have a scanner then I guess we can just take it on the fly and then say ok take a picture.

**Board Member Hansen:** Ok.

**Deputy City Attorney Martha Lantz:** Or something... I would expect.... I mean, I would hope that were not going to be finding documents under the rug at the 11<sup>th</sup> hour, I mean...

**Chair Summers:** Me too!

**Deputy City Attorney Martha Lantz:** You would think they would have electronic copies at the ready of you know...

**Board Member Hansen:** Yeah.

**Deputy City Attorney Martha Lantz:** Things that are relevant...

**Board Member Hansen:** That is true. I mean, in this day in age everybody, everything is digital, so they've got everything rather than hard copies. Well, they have hard copies too, but, uh, most of the lawyers are putting their stuff on, you know, scanning everything and putting it in their computer. So....

**Chair Summers:** Ok. And I should say that I've only gotten to page two, and there are seven pages of this script. I may want to move on.

**Deputy City Attorney Martha Lantz:** Ok. Well I think we resolved a big thing, so I will fix that. So, moving right along...

**Chair Summers:** This is a hearing on appeal for a termination. The disciplinary authority, City of Tacoma, has a burden showing by preponderance of the evidence that the termination was in good faith and for cause. The City with present it's evidence first, followed by the Appellant. Following the examination and the cross-examination of each witness, Board Members may ask additional questions of that witness. I will call on each Board Member at the close of each cross-examination to see if they have questions. Is that clear? I will call on you even if you don't have your hand raised. I'm going to call each Board Member at each witness to see if you have any additional questions. Ok. Is that ok with... ok, I saw Eric.. you don't... yeah  
At the close of the hearing, I will call on each party to make a closing argument if desired. The Board will recess to an Executive Session to deliberate prior to ruling on the appeal. The final decision of the Board will be made in open session by motion and vote.

**Board Member Hansen:** Ok... Madam Chair?

**Chair Summers:** Yes.

**Board Member Hansen:** I'd like us to back up for just a second here .So, for the additional questions, so we ask our additional questions, but that... and I've seen, you know, we we've done this in the past (cannot understand).. the lawyers may feel obliged to ask some additional follow-up questions if we raise an issue on our... with regard to our questions. And, I think it might be good to say after we ask our questions, to ask the parties, "do you have any other questions" So they can kind of resume their direct and re-cross until they are done. Does that seem reasonable to you guys?

**Chair Summers:** No, not to me. And, it's because when we ask our questions, they've already done their examination/cross-examination and they can go back and follow up. And so, they've completed their presentation. If we bring up a subject that they have not thought about or is new to them, they can bring it up in their closing argument, they can bring it up elsewhere, but I am not gonna have them go back and do the cross-examination, the examination and the follow-up again because of one of our questions. And I'm not sure that I've ever seen that happen that our questions have ever led them to want any more information.

**Board Member Hansen:** Well, well, their questions would be limited to the scope of our question. Which would limit it to some degree. Right?

**Deputy City Attorney Martha Lantz:** I, I, did, um, ask Jennifer about that, you know, for background for the Board. And she channeled the chair immediately and she said, you know, in the past they have not allowed that, but I do agree with you Eric, it is commonplace especially when the Judge or the adjudicative body has some questions to usually... you know, it's not uncommon to reopen cross and direct, but it's limited in scope to only those questions. But, what Jennifer did point out to me is there's nothing in the rules that even requires Board Members to ask questions and what she shared with me, um, was that her experience with this Board is that you like to. You like to have that opportunity, but because it wasn't a formally scripted process, nor, you know, nor was it, is it, really contemplated by the rules that, um, that was her impression that she shared with me as to why it was limited. And, if you don't have a question, don't feel obligated to manufacture one. It was really, she thought it had been used in the past for clarification, and, you know, less to make the record than just to make sure you understood, you know, what you thought you understood and things like that. But, I just wanted to share that for background because I did check in and, you know, of course whatever you all want to do, can make it happen. But, yeah.

**(Chair Summers and Board Member Hansen both speaking)**

**Board Member Hansen:** I thought I saw that in the past, but I guess I was mistaken on that. So, ok.

**Chair Summers:** Ok. Um, and again, if there is something that's brought up, they can address it in their closing arguments... which they have the right to do.

At the close of the hearing, I will call on each party to make a closing argument... ok we've gotten through that. We will now move forward with argument and presentation of evidence and will the parties or their representatives please introduce themselves for the record, beginning with the City. And then I wait for them to introduce themselves and then the parties or the representatives may now present an opening statement if desired. Again, beginning with the City. And then after the City's opening, the Appellant may now present and opening statement. And then the City will call it's first witness. And I'm asking the Deputy City Attorney... is that you Ms. Lantz?

**Deputy City Attorney Martha Lantz:** No, that would be Paul.

**Chair Summers:** That would be Paul. Ok. So I'm a little... it says will the Deputy City Attorney please state the witness name for the record and please ensure the witness name shows on Zoom screen. So he's responsible for doing that, instead of the witness stating their name for the record themselves?

**Deputy City Attorney Martha Lantz:** Well, I assume his first question would be to, you know, state your full name for the record. But, what I was thinking... and we can change this... I was just thinking that given the sort of awkwardness of the technology that it might be good to ground you all. So that you know who the person is. There's some time that they get their name up on the screen. There's some discus... a little bit of discussion between the attorney and their witness that, you know, they need to follow the ru.. the instructions that you're giving. That they need to speak aloud, that they put their name on the screen, I mean it's really just kind of a place holder.

**Chair Summers:** I appreciate that.

**Board Member Andrews:** I have a, I have a technology question. Is it assumed that the Deputy City Attorney knows how to put somebody's name on the Zoom screen and/or ... is that an assumption or is there instruction about how to do it, where to put it in the chat box or whatever the case is.

**Deputy City Attorney Martha Lantz:** I think, I think only the witness will be able to do it, so if they're having issues that their name doesn't turn up on the screen, I think maybe Shelby could instruct.

**Human Resources Director Shelby Fritz:** I can make your name whatever you want it to be.

**(Deputy City Attorney Martha Lantz and Board Member Andrews both speaking)**

**Board Member Andrews:** So you'll be the one doing Shelby.

**Human Resources Director Shelby Fritz:** Yeah, we ask people to rename themselves because you never know... you want to make sure that...

**Board Member Andrews:** Right, right.

**Human Resources Director Shelby Fritz:** But if somebody needs to help, I can totally do it.

**(Deputy City Attorney Martha Lantz and Board Member Andrews both speaking)**

**Deputy City Attorney Martha Lantz:** I just thought it would be helpful to, you know, make sure that, you know, just the, you know, like if they were doing it in person, you know, sometimes make little table tents for Witness #1 or whatever. So you'd just have that to refer to.

**Chair Summers:** No, I appreciate that you put it in this way. I just had questions about it. So, what we are asking is will the Deputy City Attorney please state the witness name for the record and please ensure that the witness name shows on the Zoom screen. But that really implies... applies to Ms. Fritz. And please also ensure that the witness answers out loud so that everybody can clearly hear them. Um, I like that. Thank you, I appreciate that.

**Human Resources Director Shelby Fritz:** May I ask a clarifying question?

**Chair Summers:** Yes.

**Human Resources Director Shelby Fritz:** I likely won't know who all the witnesses are. So will they be introduced first so that I could.

**Deputy City Attorney Martha Lantz:** That was sort of the idea of this before each witness, but this is going to be repeated each time. So, say the City calls ten witnesses, so I would call Witness A... the Chair would do this...we'd take a little time, a little housekeeping to make sure that everybody is properly lined up in their box, with their name on it. And that they're going to speak out loud.

**Chair Summers:** And actually, we have a list of the witnesses which Ms. Hobson submitted to me, which has Dylan and Julie, Roger and Rich. Those are the witnesses that we have coming before us. Those are the ones that are named and on a list currently and they're also the ones that have subpoenas at the end of our notebook. So, those are the ones that we know will be here. If that's helpful... is that helpful?

**Human Resources Director Shelby Fritz:** I only know what one of them looks like though, so..

**Chair Summers:** Oh.

**Human Resources Director Shelby Fritz:** I'll sort it out, don't worry. There's not a lot of them, so hopefully that will be made clear. And most of the time, they come with their own name already in place, so.. I'm not too worried.

**Chair Summers:** Well and one of our witnesses is here today. Dylan. So we know that he comes with his name and it looks good Dylan. Do it again tomorrow... I mean on Thursday. You can do it again tomorrow too, but Thursday when I expect to see you.

Ok, then after that the Board places the witness under oath and, um, Martha has written for me: Please raise your hand. Do you solemnly swear or affirm that your testimony you shall give be the truth, the whole truth, and nothing but the truth. And hopefully, all witnesses will answer yes or I do. And then I simply say “the City may proceed with direct examination.” And I do that over and over again with the City’s witnesses and then we come to the Appellant. Oh no, I’m sorry. I am skipping over. But, “the City may proceed with direct examination” and then I say “The Appellant or it’s representative may now cross-examine the witness and then after the conclusion of the cross-exam. I will now call on each Board Member in turn for that Board Member to ask questions if they have any of this witness. And we just go through that kind of repeatedly a couple times. And, again, I will ask the City to begin with their cross-examination and the Appellant... or the City.... The Appellant may proceed with direct examination and then the City would be doing the cross-examination. And then at the conclusion, do any Board Members have questions, and that’s pretty simple. Any questions on that part because that’s where... Yes. Ms. Lantz.

**Deputy City Attorney Martha Lantz:** I actually do have a questions, so, um, in the rules and procedure, while they are instructed to turn in their documents ahead of time... there’s nothing that says that they have to name their witnesses ahead of time. So, it is possible that you’ll have witnesses beyond those which were subpoenaed. I don’t know if it happens, but I think it’s possible and I think would potentially be allowed. So, just to, just to, that’s why I didn’t spell out who we thought the witnesses were gonna be. Because we don’t know.

**Chair Summers:** Ok. So, with that said, we’ll... we will just have to go, um, we’ll just have to have the City Attorney or the Appellant introduce their witnesses and take it from there. Correct? The procedure will be the same whether or not we know about them ahead of time.

**Deputy City Attorney Martha Lantz:** Yes. Absolutely.

**Chair Summers:** Ok.

**Deputy City Attorney Martha Lantz:** But I just wanted to point out that seems... I thought that was odd in the rules, because, you know, usually you exchange witness lists ahead of time just, you know, between the parties. And there isn’t that requirement.

**Chair Summers:** Yeah, we have asked for that in the past, so I think we need to go and change those rules and make it a requirement. Um...

**Deputy City Attorney Martha Lantz:** In a different meeting, on a different agenda. We can absolutely change that.

**Chair Summers:** Yeah, yeah.

**Board Member Hansen:** Yeah, yeah. I think that’s a good idea, and then we would go back to, um, if you’re not offering the witness for impeachment or rebuttal, then you’d

have to come up with a pretty good reason why you didn't disclose that witness prior to the hearing, but we could have a deadline...

**Chair Summers:** Not this time.

**Board Member Hansen:** Yeah, not this time, but in the future. Then we could give the parties a deadline, um, for submission of the witness list. But I think, yeah, I think that is a good idea. In the future obviously.

**Chair Summers:** Yes. Okay and then, the parties may now present closing statements if desired starting with the City again. And after the City has presented, "Does the Appellant wish to make a closing statement?" And then I will announce that the Board will now recess and move into Executive Session and begin its deliberations. The Board Members and their legal advisor will move to a separate break room... breakout room and at the conclusion of the Board's deliberations we will return to the open meeting for a motion and a vote on the Board's determination. And then after we return, I will entertain a motion, and get a second, hopefully, and then pass it by... ok, now it doesn't really matter, but because we are on Zoom it would be easier, I think, for Wendy if we did a role call vote so that we have... would that be easier for you? (Wendy nods) We will take a role call vote. Martha if you would add that in there for, so, and it's because it's Zoom. And I just want it to, at least, show right. Ok, and at this point we will also decide, um, ok... So we will be talking about whether or not to, um, look at additional information that has been presented to us and we will have to come out and let them know that too. So, we'll make a list of what we've decided for each document that's been submitted. Does that sound like the proper (Ms. Lantz nods) procedure to everybody?

Ok. If there's nothing else... that is the script. And, so that's how we will be conducting the meeting on Thursday. Are there other questions from Board Members? Anything that we need to address in regards to how the hearing will proceed? Ms. Fritz?

**Human Resources Director Shelby Fritz:** Would you like to experience what it's like to go into a breakout room?

**Chair Summers:** Absolutely.

**Human Resources Director Shelby Fritz:** So, what I am going to do is I am going to automatically send you there. And then, there's a leave button that will bring you... I know, it's like teleportation, it's pretty cool... there's a leave button that will allow you to come back.

**Board Member Sexton:** Are you going to bring us back?

**Human Resources Director Shelby Fritz:** Yeah, maybe... depends. Um, so what probably would be the best is during the meeting, if you just send me a message saying "bring us back"... or you could just press the leave button and come back all on your own, however it works. So, I'll show you... and I'm sorry, I have a cat that's trying to help.



**Chair Summers:** They're very helpful critters.

**Human Resources Director Shelby Fritz:** Yes. Alright, so let's try this.

**Deputy City Attorney Martha Lantz:** I got an invitation to join, I don't know if everybody got that. So you press that?

**Human Resources Director Shelby Fritz:** Uh huh. Okay, and we'll be right back.

**Wendy Hobson:** Okay, I'm going to leave the room now. But you all stay.

**(Several people talking at once)**

**Human Resources Director Shelby Fritz:** One, I heard like three people talking at the same time.

**Deputy City Attorney Martha Lantz:** I'm sorry, I just wanted to say one thing, the closed Executive Session should not be recorded.

**Human Resources Director Shelby Fritz:** Okay. So when we're doing it, I'll pause it until you come back out. So, I will make sure that happens.

**Wendy Hobson:** And will not put me in the breakout room.

**Human Resources Director Shelby Fritz:** Right, I just put everybody who wasn't the "audience" in here, just so you could see.

**Wendy Hobson:** Oh, ok.

**Chair Summers:** Oh, can we talk bad about the people still out there? No... I'm kidding.

**Human Resources Director Shelby Fritz:** Well, they can't hear you, so...

**Chair Summers:** No, but that is part of the reason that Wendy should not be in the room. This is not recorded. The Executive Session is supposed to be private. And the decision-making has to be done in public, but this is the back room. Um, Martha will keep us on the topic and make sure we don't do anything bad.

**Board Member Sexton:** Will we have (cannot understand)

**Several people:** What's that?

**Board Member Sexton:** Will we have cigars in the back room?

**Human Resources Director Shelby Fritz:** No, sorry. Unless you bring your own, you know.. But when you're ready to come back, all you need to do is click "Leave Room" and it will automatically put you back into the main session.

**Deputy City Attorney Martha Lantz:** And I don't see the Leave Room button... Oh

**Chair Summers:** I don't either.

**Deputy City Attorney Martha Lantz:** No, I see "Leave" up on my screen.

**Chair Summers:** Now I see it.

**Deputy City Attorney Martha Lantz:** Is that it or.. Just leave.. or does that just leave the meeting?

**Human Resources Director Shelby Fritz:** Do you see at the bottom right-hand corner where..

**Chair Summers:** It says Leave Room.

**Human Resources Director Shelby Fritz:** Yes. That's the one you want.

**Deputy City Attorney Martha Lantz:** Oh, ok. I don't see that, but I am looking at my iPad, so who knows. Maybe we should just tell you when we're ready to come back.

**Human Resources Director Shelby Fritz:** Yeah. Ok. I am going to move all of you...

**Several people speaking at once.**

**Chair Summers:** I am going to try to leave the room by myself.

**Human Resources Director Shelby Fritz:** Ok. I will move you Martha.

**Board Member Hansen:** Ok, we're leaving the room?

**Deputy City Attorney Martha Lantz:** We didn't get the Chair back.

**Human Resources Director Shelby Fritz:** She may have hit the Leave Meeting button.

**Deputy City Attorney Martha Lantz:** I was afraid that button would... so I'm glad I didn't hit it.

**Board Member Hansen:** I almost did that myself.

**Human Resources Director Shelby Fritz:** So, it's probably wise just to give me a heads up when you're ready to come back. And Martha, if you'll do that because we're going to disable the chat so we don't get audience participation.

**Deputy City Attorney Martha Lantz:** Do you want me to do it by email or Teams? Or does it matter?

**Human Resources Director Shelby Fritz:** Teams.

**Deputy City Attorney Martha Lantz:** Ok.

**Human Resources Director Shelby Fritz:** And hopefully Chair Summers will come back to us here. It is actually a lot easier to just move everybody at once. That way nobody gets lost in the shuffle.

Oh, there she is. You're on mute Chair Summers.

**Chair Summers:** I got kicked off when I pressed Leave Room. So, I had to reenter.

**Deputy City Attorney Martha Lantz:** Yeah, we think that button is actually Leave Meeting. So...

**Human Resources Director Shelby Fritz:** So...

**Deputy City Attorney Martha Lantz:** So, we'll just tell Shelby. I can message her on the City's instant message thing.

**Chair Summers:** Perfect. Well, I'm glad we tried that. Thank you. Is there anything else we need to know before our meeting? No. Well, if not, we are adjourned. Thank you all and thank you for your time. Thank you, Ms. Lantz, for doing all this work on the script and revising it. I appreciate it all your hard work.

**Deputy City Attorney Martha Lantz:** Well, thank you. I am going to send.. I'm going to take some time on it and I am going to send it back out to everybody and, um, if you have time to just take a look to make sure it comports with, you know, what we thought was going to happen. Just let me know if you see anything that looks weird or glitchy and we will just make sure that it works. And if you get a chance, if anybody gets a chance to talk to Board Member Heller, just let her know what the plan was too.

**Chair Summers:** Okay. Thank you.

**Adjourned: 6:05 PM**

**ATTEST:**

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**Dan Sexton, Vice Chair**

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**Wendy Hobson, Coordinator**