



Seattle Department of Human Resources

Bobby Humes, Director

August 4, 2020

Dear Chief Best and Senior Deputy Mayor Fong:

The Labor Relations (LR) unit within the Seattle Department of Human Resources manages the relationship and leads negotiations with all 30 unions representing City of Seattle employees. We understand that the success and timeline of bargaining with the Seattle Police Officers' Guild (SPOG) and the Seattle Police Management Association (SPMA) is inherently tied to the ability of the Council and Executive to put forward a rebalanced budget for 2020. As the unit that will be engaging in any and all bargaining of officer layoffs, we thought it prudent to provide our analysis regarding any upcoming negotiations. The below analysis is based on the LR unit's experience bargaining as well as the advice of the City Attorney's Office and outside counsel.

Labor Relations does not believe that out-of-order layoffs can be accomplished by the end of 2020. Even in a scenario where a petition to conduct out-of-order layoffs is granted by the Public Safety Civil Service Commission (PSCSC), layoffs will need to be bargained, and that fact, compounded by the fact that each individual officer can plead their case to the PSCSC, means that out-of-order layoffs would take many months to finalize. That scenario does not factor in the extreme likelihood of litigation.

[Section 4.08.040 of the Seattle Municipal Code](#) creates the Public Safety Civil Service Commission (PSCSC), which makes the rules regarding layoffs as it relates to Seattle Police Department and Seattle Fire Department uniformed personnel. It's the [Public Safety Civil Service Commission's Rules of Practice and Procedure](#) (Rule 15, specifically) which dictate that layoffs to Seattle Police Department and Seattle Fire Department uniformed personnel should proceed in the following order:

1. Provisional appointees;
2. Temporary or intermittent employees not earning service credit;
3. Probationers (except as their layoff may be affected by military service during probation);
4. Regular employees in the order of their length of service, the one with the least service being laid off first.

There is a provision in Rule 15 that allows for out-of-order layoffs, which would require the Chief to prove the out-of-order layoffs are necessary for the efficient operation of the department. And she may have to do that for each individual layoff in question. Complicating matters is the fact that this rule has never before been cited or tested, and there is no definition of what the "efficient" operation of the department looks like.

In addition to petitioning the PSCSC, any layoffs would necessitate either decision or impacts bargaining. Bargaining over layoffs generally takes time to accomplish, as the union often wants to explore alternatives. The union has an interest in keeping the workers employed and can propose solutions that lead to fewer or no layoffs, *e.g.* furlough days or an early retirement incentive plan.



In the current situation, there is no layoff language in the agreements with SPOG and SPMA and, as previously stated, the layoff language in the PSCSC is subject to different interpretations. When layoffs require decision bargaining, they cannot be implemented until negotiations have been completed or the matter is moved to mediation and if parties have not yet reached agreement, interest arbitration. When layoffs require impacts bargaining, the employer must still provide notice and allow time for meaningful negotiations before layoffs are implemented. It is not reasonable to expect that bargaining over the decision to lay off employees would be finalized by November 1. Completing bargaining on impacts of layoffs in the middle of the COVID-19 pandemic also makes it unlikely that negotiations and layoffs can be completed by November 1, as envisioned by the City Council. The scenarios above assume that the employer and the unions agree whether the specific reasons for layoffs (which will vary) are either a mandatory or a permissive subject of bargaining. Legal challenges before the Washington State Public Employment Relations Commission (PERC) are likely, which would inevitably delay the bargaining process.

It is also important to understand that the consequences of failure are high. Even in the best of circumstances, there is a reasonable likelihood of litigation during or after this process. Should the City lay off improperly or without meeting its bargaining obligations, the remedy could be to require the improperly laid off employees be returned to work with back pay and to require the City and the unions to start the process over again.

LR has already received demands to bargain from SPOG, SPMA, the Seattle Parking Enforcement Officers Guild, and the Seattle Police Dispatchers' Guild. We must meet our legal obligation to bargain with these unions in good faith, as that obligation that is enshrined in State law. LR is committed to working as expeditiously as possible to complete this work and bargain with the unions.

Based on experience bargaining with these unions, LR fully expects the unions will oppose layoffs. If the City and unions cannot reach an agreement on layoffs, we will transition to mediation, and then interest arbitration. Those processes may also be delayed by potential litigation, or unfair labor practices filed with the PERC. Based on the fact that the Chief must justify out of order layoffs, and that each individual officer can petition for their layoff to be reconsidered, the fact that bargaining will likely take months and could result in mediation or arbitration, and the potential of litigation, Labor Relations does not believe out-of-order layoffs can occur in 2020. As such, it would not be fiscally prudent to assume any budgetary savings resulting from out-of-order layoffs in the 2020 rebalancing proposal.

Sincerely,

Jana Sangy
Director
Labor Relations
Seattle Department of Human Resources

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