

**RESOLUTION NO. 90- 30**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF PASO ROBLES  
ADOPTING PROCEDURES FOR CONDUCT OF HEARINGS  
ON APPEALS OF DISCIPLINARY ACTIONS**

**WHEREAS**, the City of El Paso de Robles has the authority under Government Code Sections 45000 et seq. and Paso Robles Municipal Code Chapter 2.44 to adopt reasonable personnel rules and regulations; and

**WHEREAS**, Rule 13 of the PR&Rs provides procedures to be followed for disciplinary actions of employees and Rule 14 establishes procedures for appeals of said disciplinary actions; and

**WHEREAS**, the Council finds it is desirable and necessary to adopt more specific procedures for the conduct of appeals of disciplinary actions before the Council sitting as the Personnel Board.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**SECTION 1.** The procedures set forth on the attached Exhibit "A" are hereby adopted for use in the conduct of appeals of disciplinary actions heard by Council under Rule 14 of the PR&Rs.

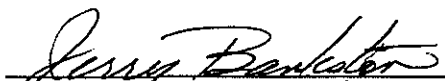
**SECTION 2.** The procedures set forth in Exhibit "A" are to be construed in such a way as to be harmonious with all other provisions of the PR&Rs and, where such harmony is not possible, the provisions of Exhibit "A" shall control.

**PASSED AND ADOPTED** by the City Council of the City of Paso Robles, this 20th, day of February, 1990, on the following vote:

**AYES:** Russell, Conway, Cousins and Martin  
**NOES:** None  
**ABSENT:** Reneau

  
\_\_\_\_\_  
Steven W. Martin, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Jerry Bankston, City Clerk

STATE OF CALIFORNIA )  
COUNTY OF SAN LUIS OBISPO ) ss.  
CITY OF EL PASO DE ROBLES )

I,..... Jerry Bankston....., City Clerk/~~Deputy City Clerk~~ of the City of El Paso de Robles, California, do hereby certify that the foregoing ...Resolution No. 90-30..... was duly and regularly adopted, passed and approved by the City Council of the City of El Paso de Robles, California, at a regular..... meeting of said City Council held at the regular meeting place thereof, on the ...20th..... day of February....., 19<sup>90</sup>....., by the following vote:

AYES:..... Russell, Cousins, Conway and Martin.....  
NOES:..... None.....  
ABSENT:..... Reneau.....  
ABSTAINED:..... None.....

Dated this..... 20th..... day of February....., 19<sup>90</sup>.....

Jerry Bankston  
City Clerk and Ex-Officio Clerk of the  
City Council, City of El Paso de Robles,  
State of California

EXHIBIT "A"

PROCEDURES FOR CONDUCT OF HEARINGS OF APPEALS OF  
DISCIPLINARY ACTIONS BY COUNCIL SITTING AS Council

1. These procedures generally implement the Personnel Rules and Regulations, and specifically, Rule 14.04 regarding this subject.

2. Once a timely appeal under Rule 14.03 has been filed and notice of the required hearing provided as set forth in Rule 14.03, the following procedures shall apply:

Appearance, Representation, Witnesses, Conduct of Hearing.

a. The employee requesting the hearing shall not be required to appear at the hearing; provided, however, that the City shall have the right to call as a witness and examine the employee requesting the hearing as if under cross-examination.

b. The employee may be represented by any person, including a representative of a recognized employee association.

c. Unless otherwise mutually agreed upon by the employee and the City's representative, during the hearing, any witnesses to be called by either the employee or the City shall be excluded from the hearing room unless actually testifying. Provided, that the employee and City each may designate a person, who shall not be subject to exclusion who has investigated the matter at issue in the hearing and whose assistance during the hearing is necessary to the efficient conduct of the hearing.

d. The hearing shall be presided over by the Mayor or Vice Mayor.

e. The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses, but the hearing shall be conducted in a manner most conducive to determination of the truth. Any relevant evidence shall be admitted if it is the sort of evidence which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence shall be excluded. Decisions made by the Council shall not be invalidated by any informality in the proceedings, and the Council shall not be bound by technical rules of evidence.

f. The Council shall rule on the admission or exclusion of evidence and application of other rules of law with the assistance of its legal advisor, the City Attorney.

f. The hearing shall proceed in the following order unless the Council otherwise directs:

(1) City's representative and the employee may make opening statements;

(2) City's representative shall present evidence in support of City's position; employee may cross-examine City's witnesses;

(3) The employee may present evidence in his/her own behalf; City's representative may cross-examine the employee's witnesses;

(4) Both the City's representative and the employee may then present rebuttal evidence, unless the Council for good reason permits additional evidence upon the original cases;

(5) City's representative and the employee may make closing arguments.

h. Each party may impeach any witness regardless of which party first called the witness.

i. No still or moving photography or pictures of any kind shall be taken in the hearing room during the hearing.

j. Prior to or during a hearing the Council may grant a continuance for any reason it believes to be important to its reaching a fair and proper decision.

k. Upon conclusion of the hearing, the Council may deliberate its decision in closed session. No persons other than members of the Council shall participate in the deliberations; provided, that the Board may request the attendance of the City Attorney for the sole purpose of rendering legal advice.

l. At a minimum, the Council shall find whether the City has substantiated the charges in support of the disciplinary action. It shall base its findings on the preponderance of the evidence. Findings shall be made as to each charge. If the Council finds that none of the charges are supported by the evidence presented, then no disciplinary action shall be taken.

If the Council finds that any or all of the charges are supported, it shall either:

(1) Direct that the imposed disciplinary action be carried out;

(2) Direct such other disciplinary action deemed appropriate under the circumstances; or

(3) Direct that no disciplinary action be taken.

m. If it is determined that no discipline shall be imposed, the action shall be rescinded and the employee's records and pay shall be appropriately adjusted.

n. The Council's findings and order shall be filed with the City Clerk.

o. The action of the Council shall be final.