RESOLUTION NO. 10574

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA DECLARING AS PUBLIC RECORDS THE ATTACHED DOCUMENTS ENTITLED "PERSONNEL APPEALS BOARD HEARING PROCEDURAL RULES FOR CLASSIFIED EMPLOYEES (EXCLUDING SWORN LAW ENFORCEMENT)" AND "PERSONNEL APPEALS BOARD HEARING PROCEDURAL RULES FOR SWORN LAW ENFORCEMENT EMPLOYEES," AND DIRECTING THAT THEY BE FILED WITH THE CITY CLERK.

BE IT RESOLVED by the City Council of the City of Mesa, County of Maricopa, State of Arizona, as follows:

SECTION 1: That those certain documents entitled "Personnel Appeals Board Hearing Procedural Rules for Classified Employees (Excluding Sworn Law Enforcement)" and "Personnel Appeals Board Hearing Procedural Rules for Sworn Law Enforcement Employees," which are attached hereto as Exhibits "A" and "B" respectively, and made part hereof and incorporated herein by reference are hereby declared to be public records pursuant to A.R.S. § 9-802.

SECTION 2: Three copies of the above documents are hereby directed to be filed in the office of the City Clerk and kept available for public use and inspection.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona this 26th day of January, 2015.

CITY OF MESA CORPORATE SEAL MARICOPA COUNTY, AZ

APPROVED

MAYOR

ATTEST:

CITY CLERK

CITY OF MESA **Exhibit A**

PERSONNEL APPEALS BOARD HEARING

PROCEDURAL RULES FOR CLASSIFIED EMPLOYEES (EXCLUDING SWORN LAW ENFORCEMENT)

The Personnel Appeals Board (hereinafter "Board") establishes the following procedural rules for Personnel Appeals Board hearings. The purpose of these rules is to facilitate fairness and impartiality during Personnel Appeals Board hearings. The Board desires to conduct the hearing expeditiously by setting rules and deadlines for the pre-hearing exchange of materials and a schedule for the hearing itself.

I. General Rules

A. Upon requesting an appeal, the Appellant must notify the Personnel Appeals Board Secretary (hereinafter "Secretary") if he/she has retained legal counsel or will be represented by an employee representative. If the Appellant does not have an attorney and/or an employee representative at the time of requesting an appeal, but later retains either or both, he/she shall notify the Secretary as soon as practicable.

B. If the Appellant has retained legal counsel and/or has an employee representative (hereinafter collectively referred to as "Appellant's Representative"), all future communication from the Secretary will be directed to the Appellant's Representative. The Appellant's Representative is responsible for communicating all information received from the Secretary to the Appellant.

C. The Board has no authority to issue subpoenas. Appellant or Appellant's Representative may request that current City of Mesa employees be available to testify at the hearing through the City's legal counsel and the City will make employee witnesses available.

D. The Board's legal counsel will represent the Board at the pre-hearing conference and the hearing. The Board's legal counsel may provide legal advice to the Personnel Appeals Board Chair (hereinafter "Chair") and the Board members on questions of law and/or interpretation of the Procedural Rules. The Chair shall make all final decisions. The Board may elect to go into executive session for the purpose of obtaining legal advice from the Board's legal counsel.

E. The Appellant may submit a written request to the City Manager to withdraw the appeal at any time before the Board issues its advisory opinion. Once an appeal is withdrawn, the Appellant shall have no further avenue of review of the employment action.

II. Scheduling

A. Upon notification by the City Manager that a matter has been referred to the Board, the Secretary will contact the Board members, the Board's legal counsel, the City's legal counsel, the Appellant, or the Appellant's Representative to determine a mutually agreed upon pre-hearing conference date and hearing date(s). The pre-hearing conference shall be scheduled at least thirty (30) days prior to the hearing.

B. The presumptive length of the hearing is one (1) day; however, two (2) (preferably consecutive) days will be scheduled. The second day will only be used upon a determination by the Chair that a second day is necessary.

C. Any requests for a continuance of the pre-hearing conference or hearing shall be submitted to the Secretary with a copy of the request sent to the opposing party. The opposing party shall have five (5) calendar days to object to the request. If the Chair grants the request, the Secretary will coordinate with the Board members, Board's legal counsel, and the parties to reschedule the pre-hearing conference and the hearing.

D. The Chair, at his/her discretion with good cause, may continue a hearing at any time with or without a request from the parties. If a hearing is continued, the Secretary will coordinate with the Board members, the Board's legal counsel, and the parties to reschedule the hearing.

III. Pre-Hearing Submissions

A. Pre-hearing Statement and Exhibits

1. At least five (5) calendar days before the pre-hearing conference, the Appellant (or Appellant's Representative) and the City's legal counsel must each submit to the Secretary **six (6) complete sets** (one [1] set for each of the five [5] Board members and one [1] set for the opposing party) of the following items in 3-ring binders:

   a) A statement of how much time each party anticipates is required to present the case. The parties should keep in mind the presumptive time limit of three and one-half (3.5) hours for each side to present their respective cases including opening statement, direct and cross examination of witnesses, and closing argument.

   b) A Table of Contents and all exhibits that may be introduced at the hearing, separated by corresponding consecutively numbered index tabs.

   c) A complete list of witnesses and a brief summary of the substance of each witness's anticipated testimony.

   d) A one (1) page summary of the issue(s) to be presented at the hearing.

   e) Six (6) complete sets of all materials and exhibits to be submitted to the Board for consideration during the hearing.

2. All materials and exhibits shall be submitted to:

Delivery in Person or by Express Delivery:	**By US Mail:**
Mary Dellai	Mary Dellai
Personnel Appeals Board Secretary	Personnel Appeals Board Secretary
City of Mesa Human Resources	City of Mesa Human Resources
20 E. Main Street, Suite 130	**P. O. Box 1466**
Mesa, AZ **85201**	Mesa, AZ **85211-1466**

3. Absent good cause, failure to timely submit materials and evidence to the Board with the pre-hearing submission, or to notice a witness in the pre-hearing statement, shall result in such materials/evidence and/or witness(es) being excluded from the hearing.

4. Other than materials and evidence submitted to the board and exchanged by the parties in accordance with this section, no pre-hearing discovery is permitted.

B. Pre-Hearing Motions

1. No later than ten (10) calendar days after the pre-hearing conference, the parties shall submit to the Board in writing any procedural motions or any motions relating to the admissibility of any evidence. Copies of all motions must be sent to the opposing party at the time of submission to the Secretary. Motions relating to the admissibility of evidence shall be limited to whether the evidence in question is irrelevant, immaterial, incompetent or cumulative, or whether proposed testimony or evidence is legally privileged.

2. The opposing party shall have five (5) calendar days to submit a response to any motion. The Secretary shall submit all motions and their respective responses to the Chair for a ruling.

3. The Chair shall review and decide all motions no later than one (1) week prior to the hearing. In deciding motions relating to the admissibility of evidence based on irrelevance, immateriality, incompetence or cumulativeness, the Chair shall apply the legal standard set forth in the Arizona Rules of Evidence. The Chair may seek legal advice from the Board's legal counsel on the legal standard.

IV. Pre-Hearing Conference

A. The Chair, the Board's legal counsel, the City's legal counsel, the Appellant or Appellant's Representative, and the Secretary must attend the pre-hearing.

B. The pre-hearing conference is not an open, public meeting.

C. The pre-hearing conference will last no more than one (1) hour.

D. The pre-hearing conference will be recorded by the Secretary. The Secretary's recording will serve as the official record.

E. The Chair will ask the Appellant or the Appellant's Representative if the hearing will occur in an open, public meeting or in executive session.

F. The time and location of the hearing, procedural matters, the list of witnesses, the standard of proof, and objections to evidence may be discussed at the pre-hearing conference. The Chair will also define the issues to be presented to the Board at the hearing.

G. A draft of the pre-hearing minutes will be sent to both parties for approval. The approved minutes will be sent to the Board members.

V. The Hearing

A. The hearing will begin promptly at the time and location designated by the Secretary. Parties may arrive as early as one-half (½) hour before the hearing.

B. The hearing will proceed before the Board members. A minimum of three (3) Board members must be present for the hearing to proceed.

C. If the Appellant or the Appellant's Representative fails to appear in person for the hearing without just cause, the Board shall consider the appeal abandoned, and the Appellant shall forfeit any further appeal rights.

D. All Hearings shall be informal, except that testimony shall be given under oath or affirmation administered by the Chair.

E. The Rules of Evidence will not apply, except for those relating to irrelevant, incompetent, or cumulative evidence or testimony, and statutory provisions relating to privileged communications.

F. The Chair shall rule on all objections and disallow testimony or evidence that is irrelevant, immaterial, incompetent, or cumulative. The Chair shall apply the legal standard set forth in the Arizona Rules of Evidence. The Chair may seek legal advice from the Board's legal counsel prior to making such rulings.

G. Board members may question the witnesses at any time.

H. The City's legal counsel, Appellant or Appellant's Representative may attend all aspects of the hearing. In addition, the City is allowed to have one (1) client representative present with legal counsel during the hearing, who may also testify as a witness.

I. The standard of proof is whether a preponderance of the evidence establishes the facts underlying the disciplinary action and, if so, whether the discipline was arbitrarily imposed or taken without any cause.

J. Order of proceedings:

1. The Chair will exclude all non-party witnesses from the hearing room. All non-party witnesses who will testify at the hearing will be excluded until the time they testify and until they are released from exclusion by the Chair. The Chair shall admonish each witness not to discuss their testimony with anyone other than the City's legal counsel, Appellant or Appellant's Representative prior to being released from exclusion by the Chair.

2. The Chair will designate a timekeeper to ensure the time frame for the hearing is maintained.

3. If the hearing is open to the public, the Chair will instruct observers of the following rules:

   - Seating is limited to room capacity and public seating chairs.
   - No standing or waiting outside the hearing room or in the hallway.
   - No food.
   - Cell phones must be turned off.
   - No video recording devices.
   - Observers will not be allowed to speak or ask questions during the proceedings.

- The Chair reserves the discretion and the right to remove any person from the hearing at any time for disruptive behavior.

4. The Chair will review the pre-hearing conference minutes and Board instructions.
5. Opening statement of City (approximately 10 minutes unless the Chair allows more time at the time of the hearing. If additional time is granted, the other party shall be allowed an equal amount of time for their opening statement.).
6. Opening statement of Appellant (approximately 10 minutes unless the Chair granted additional time for the City's opening statement. An equal amount of time will be allowed for the opening statement of the Appellant.).
7. The Chair (or the Chair's designee) will administer the following oath or affirmation to each witness.

   "Do you swear (or affirm) that the testimony you are about to give in this proceeding shall be the truth and nothing but the truth?"
8. Direct examination, cross-examination, and redirect examination of City's witnesses.
9. Direct examination, cross-examination, and redirect examination of Appellant's witnesses.
10. Testimony of City's rebuttal witnesses, if any.
11. Closing argument of the Appellant (approximately 15 minutes unless the Chair allows more time.).
12. Closing argument of City (approximately 15 minutes unless the Chair allows more time.)
13. Adjournment of the hearing by the Chair.

VI. POST HEARING

A. At the conclusion of the hearing, the Board will hold an executive session to deliberate and discuss the merits of the testimony and evidence presented. The Board's counsel, Appellant, and/or Appellant's Representative are permitted to attend the executive session. The executive session must be attended by at least three (3) Board members that were present for the entire hearing. If five (5) Board members were present for the entire hearing, all five Board members may deliberate and vote on the recommendation to the City Manager. In order to avoid a potential 2-2 split decision, if only four (4) Board members are present for the hearing, the last appointed Board member may participate in the deliberations but may not vote.

B. If the Appellant and/or Appellant's Representative attend the executive session, they may not make any further statements or comments to the Board.

C. The Board shall base its decision solely on the evidence received at the hearing.

D. When the Board's deliberations conclude, the Board members shall vote in an open meeting on a recommendation to the City Manager. The Board members may vote to recommend any of the following actions:

- uphold the City's decision;
- reinstate the employee to his/her prior position with all back pay and benefits; or
- recommend lesser discipline.

E. The Board's recommendation shall be based on the majority vote of the Board members.

F. If the City's legal counsel, Appellant, or Appellant's Representative are not present for the Board's vote and recommendation, the secretary shall notify the parties of the recommendation via email. Neither the Board nor the secretary shall notify anyone of the Board's recommendation prior to sending notification to the parties.

G. Within five (5) business days of the Board's vote, the Board shall prepare its written advisory opinion to the City Manager. In the advisory opinion, the Board shall set forth its findings of fact and conclusions of law supporting the recommendation.

H. The Secretary shall prepare and forward the advisory opinion to the City Manager.

I. The Secretary shall provide a written copy of the advisory opinion to the Board members, the Board counsel, the Appellant, the Appellant's Representative, the City's legal counsel, the appropriate Department Manager, and the Human Resources Director.

J. No party or other person is permitted to contact the Board concerning the merits of the appeal outside of the hearing process. If any contact is attempted, the Board must refuse to discuss any aspect of the appeal with such party and/or other person.

K. A copy of the City Manager's final written ruling will be sent to the Secretary. The Secretary will forward a copy of the written ruling to the Board, the Board's legal counsel, the City's legal counsel, the Appellant or the Appellant's Representative, the appropriate Department Manager, and the Human Resources Director.

VII. Time Line

Thirty (30) calendar days prior to hearing – Pre-hearing conference..

Five (5) calendar days before pre-hearing conference – Hearing materials submitted to the Secretary.

No later than ten (10) calendar days after pre-hearing conference – Motions submitted to Secretary. Opposing party has five (5) calendar days to submit responses.

Within five (5) business days after the hearing – The Board renders its advisory opinion.

Thirty (30) days of receipt of the Board's advisory opinion (absent special circumstances), the City Manager issues final decision.

CITY OF MESA **Exhibit B**

PERSONNEL APPEALS BOARD HEARING

PROCEDURAL RULES FOR SWORN LAW ENFORCEMENT EMPLOYEES

The Personnel Appeals Board (hereinafter "Board") establishes the following procedural rules for Personnel Appeals Board hearings for sworn law enforcement personnel. The purpose of these rules is to facilitate fairness and impartiality during Personnel Appeals Board hearings. The Board desires to conduct the hearing expeditiously by setting rules and deadlines in compliance with state law for the pre-hearing exchange of materials and a schedule for the hearing.

I. General Rules

A. Upon requesting an appeal, the Appellant must notify the Personnel Appeals Board Secretary (hereinafter "Secretary") if he/she has retained legal counsel or will be represented by an employee representative. If the Appellant does not have an attorney and/or an employee representative at the time of requesting an appeal, but later retains either or both, he/she shall notify the Secretary as soon as practicable.

B. If the Appellant has retained legal counsel and/or has an employee representative (hereinafter collectively referred to as "Appellant's Representative"), all future communication from the Secretary will be directed to the Appellant's Representative. The Appellant's Representative is responsible for communicating all information received from the Secretary to the Appellant.

C. The Board has no authority to issue subpoenas. Appellant or Appellant's Representative may request that current City of Mesa employees be available to testify at the hearing through the City's legal counsel and the City will make employee witnesses available.

D. The Board's legal counsel will represent the Board at the pre-hearing conference and the hearing. The Board's legal counsel may provide legal advice to the Personnel Appeals Board Chair (hereinafter "Chair") and the Board members on questions of law and/or interpretation of the Procedural Rules. The Chair shall make all final decisions. The Board may elect to go into executive session for the purpose of obtaining legal advice from the Board's legal counsel.

E. The Appellant may submit a written request to the City Manager to withdraw the appeal at any time before the Board issues its advisory opinion. Once an appeal is withdrawn, the Appellant shall have no further avenue of review of the employment action.

II. Scheduling

A. Upon notification by the City Manager that a matter has been referred to the Board, the Secretary will contact the Board members, the Board's legal counsel, the City's legal counsel, the Appellant, or the Appellant's Representative to determine a mutually agreed upon pre-hearing conference date and hearing date(s). The pre-hearing conference shall be scheduled at least thirty (30) days prior to the hearing.

B. The presumptive length of the hearing is one (1) day; however, two (2) (preferably consecutive) days will be scheduled. The second day will only be used upon a determination by the Chair that a second day is necessary.

C. Any requests for a continuance of the pre-hearing conference or hearing shall be submitted to the Secretary with a copy of the request sent to the opposing party. The opposing party shall have five (5) calendar days to object to the request. If the Chair grants the request, the Secretary will coordinate with the Board members, Board's legal counsel, and the parties to reschedule the pre-hearing conference and the hearing.

D. The Chair, at his/her discretion with good cause, may continue a hearing at any time with or without a request from the parties. If a hearing is continued, the Secretary will coordinate with the Board members, the Board's legal counsel, and the parties to reschedule the hearing.

III. Pre-Hearing Submissions

A. Pre-hearing Statement and Exhibits

1. Unless otherwise agreed by the Appellant and the City, within three (3) days after the City's receipt of a notice of appeal of a disciplinary action subject to a hearing before the Board, the City's police department shall provide Appellant with a complete copy of the investigative file, including the names and home or work mailing addresses of all persons interviewed of who have given statements, whether written or recorded, signed or unsigned, relevant to the investigation and the disciplinary action in accordance with state law.

2. At least five (5) calendar days before the pre-hearing conference, the Appellant (or Appellant's Representative) and the City's legal counsel must each submit to the Secretary **six (6) complete sets** (one [1] set for each of the five [5] Board members and one [1] set for the opposing party) of the following items in 3-ring binders:

   a) A statement of how much time each party anticipates is required to present the case. The parties should keep in mind the presumptive time limit of three and one-half (3.5) hours for each side to present their respective cases including opening statement, direct and cross examination of witnesses, and closing argument.

   b) A Table of Contents and all exhibits that may be introduced at the hearing, separated by corresponding consecutively numbered index tabs.

   c) A complete list of witnesses and a brief summary of the substance of each witness's anticipated testimony.

   d) A one (1) page summary of the issue(s) to be presented at the hearing.

   e) Six (6) complete sets of all materials and exhibits to be submitted to the Board for consideration during the hearing.

3. All materials and exhibits shall be submitted to:

Delivery in Person or by Express Delivery:
Mary Dellai
Personnel Appeals Board Secretary
City of Mesa Human Resources
20 E. Main Street, Suite 130
Mesa, AZ **85201**

By US Mail:
Mary Dellai
Personnel Appeals Board Secretary
City of Mesa Human Resources
P. O. Box 1466
Mesa, AZ **85211-1466**

4. Absent good cause, failure to timely submit materials and evidence to the Board with the pre-hearing submission, or to notice a witness in the pre-hearing statement, shall result in such materials/evidence and/or witness(es) being excluded from the hearing.

5. Other than materials and evidence submitted to the board and exchanged by the parties in accordance with this section, no pre-hearing discovery is permitted.

B. Pre-Hearing Motions

1. No later than ten (10) calendar days after the pre-hearing conference, the parties shall submit to the Board in writing any procedural motions or any motions relating to the admissibility of any evidence. Copies of all motions must be sent to the opposing party at the time of submission to the Secretary. Motions relating to the admissibility of evidence shall be limited to whether the evidence in question is irrelevant, immaterial, incompetent or cumulative, or whether proposed testimony or evidence is legally privileged.

2. The opposing party shall have five (5) calendar days to submit a response to any motion. The Secretary shall submit all motions and their respective responses to the Chair for a ruling.

3. The Chair shall review and decide all motions no later than one (1) week prior to the hearing. In deciding motions relating to the admissibility of evidence based on irrelevance, immateriality, incompetence or cumulativeness, the Chair shall apply the legal standard set forth in the Arizona Rules of Evidence. The Chair may seek legal advice from the Board's legal counsel on the legal standard.

IV. Pre-Hearing Conference

A. The Chair, the Board's legal counsel, the City's legal counsel, the Appellant or Appellant's Representative, and the Secretary must attend the pre-hearing.

B. The pre-hearing conference is not an open, public meeting.

C. The pre-hearing conference will last no more than one (1) hour.

D. The pre-hearing conference will be recorded by the Secretary. The Secretary's recording will serve as the official record.

E. The Chair will ask the Appellant or the Appellant's Representative if the hearing will occur in an open, public meeting or in executive session.

F. The time and location of the hearing, procedural matters, the list of witnesses, the standard of proof, and objections to evidence may be discussed at the pre-hearing conference. The Chair will also define the issues to be presented to the Board at the hearing.

G. A draft of the pre-hearing minutes will be sent to both parties for approval. The approved minutes will be sent to the Board members.

V. The Hearing

A. The hearing will begin promptly at the time and location designated by the Secretary. Parties may arrive as early as one-half (½) hour before the hearing.

B. The hearing will proceed before the Board members. A minimum of three (3) Board members must be present for the hearing to proceed.

C. If the Appellant or the Appellant's Representative fails to appear in person for the hearing without just cause, the Board shall consider the appeal abandoned, and the Appellant shall forfeit any further appeal rights.

D. All Hearings shall be informal, except that testimony shall be given under oath or affirmation administered by the Chair.

E. The Rules of Evidence will not apply, except for those relating to irrelevant, incompetent, or cumulative evidence or testimony, and statutory provisions relating to privileged communications.

F. The Chair shall rule on all objections and disallow testimony or evidence that is irrelevant, immaterial, incompetent, or cumulative. The Chair shall apply the legal standard set forth in the Arizona Rules of Evidence. The Chair may seek legal advice from the Board's legal counsel prior to making such rulings.

G. Board members may question the witnesses at any time.

H. The City's legal counsel, Appellant or Appellant's Representative may attend all aspects of the hearing. In addition, the City is allowed to have one (1) client representative present with legal counsel during the hearing, who may also testify as a witness.

I. The burden of proof is on the City to establish by a preponderance of the evidence that the action was taken for just cause. "Just cause" shall have the meaning set forth in state law.

J. Order of proceedings:

1. The Chair will exclude all non-party witnesses from the hearing room. All non-party witnesses who will testify at the hearing will be excluded until the time they testify and until they are released from exclusion by the Chair. The Chair shall admonish each witness not to discuss their testimony with anyone other than the City's legal counsel, Appellant or Appellant's Representative prior to being released from exclusion by the Chair.

2. The Chair will designate a timekeeper to ensure the time frame for the hearing is maintained.

3. If the hearing is open to the public, the Chair will instruct observers of the following rules:
   - Seating is limited to room capacity and public seating chairs.
   - No standing or waiting outside the hearing room or in the hallway.
   - No food.
   - Cell phones must be turned off.
   - No video recording devices.
   - Observers will not be allowed to speak or ask questions during the proceedings.
   - The Chair reserves the discretion and the right to remove any person from the hearing at any time for disruptive behavior.
4. The Chair will review the pre-hearing conference minutes and Board instructions.
5. Opening statement of City (approximately 10 minutes unless the Chair allows more time at the time of the hearing. If additional time is granted, the other party shall be allowed an equal amount of time for their opening statement.).
6. Opening statement of Appellant (approximately 10 minutes unless the Chair granted additional time for the City's opening statement. An equal amount of time will be allowed for the opening statement of the Appellant.).
7. The Chair (or the Chair's designee) will administer the following oath or affirmation to each witness.

   "Do you swear (or affirm) that the testimony you are about to give in this proceeding shall be the truth and nothing but the truth?"
8. Direct examination, cross-examination, and redirect examination of City's witnesses.
9. Direct examination, cross-examination, and redirect examination of Appellant's witnesses.
10. Testimony of City's rebuttal witnesses, if any.
11. Closing argument of the Appellant (approximately 15 minutes unless the Chair allows more time.).
12. Closing argument of City (approximately 15 minutes unless the Chair allows more time.)
13. Adjournment of the hearing by the Chair.

VI. POST HEARING

A. At the conclusion of the hearing, the Board will hold an executive session to deliberate and discuss the merits of the testimony and evidence presented. The Board's counsel, Appellant, and/or Appellant's Representative are permitted to attend the executive session. The executive session must be attended by at least three (3) Board members that were present for the entire hearing. If five (5) Board members

were present for the entire hearing, all five Board members may deliberate and vote on the recommendation to the City Manager. In order to avoid a potential 2-2 split decision, if only four (4) Board members are present for the hearing, the last appointed Board member may participate in the deliberations but may not vote.

B. If the Appellant and/or Appellant's Representative attend the executive session, they may not make any further statements or comments to the Board.

C. The Board shall base its decision solely on the evidence received at the hearing.

D. When the Board's deliberations conclude, the Board members shall vote in an open meeting on a recommendation to the City Manager. The Board members may vote to recommend any of the following actions:

- uphold the City's decision,
- reinstate the employee to his/her prior position with all back pay and benefits, or
- recommend lesser discipline.

E. The Board's recommendation shall be based on the majority vote of the Board members.

F. If the City's legal counsel, Appellant, or Appellant's Representative are not present for the Board's vote and recommendation, the secretary shall notify the parties of the recommendation via email. Neither the Board nor the secretary shall notify anyone of the Board's recommendation prior to sending notification to the parties.

G. Within five (5) business days of the Board's vote, the Board shall prepare its written advisory opinion to the City Manager. In the advisory opinion, the Board shall set forth its findings of fact and conclusions of law supporting the recommendation.

H. The Secretary shall prepare and forward the advisory opinion to the City Manager.

I. The Secretary shall provide a written copy of the advisory opinion to the Board members, the Board counsel, the Appellant, the Appellant's Representative, the City's legal counsel, the appropriate Department Manager, and the Human Resources Director.

J. No party or other person is permitted to contact the Board concerning the merits of the appeal outside of the hearing process. If any contact is attempted, the Board must refuse to discuss any aspect of the appeal with such party and/or other person.

K. A copy of the City Manager's final written ruling will be sent to the Secretary. The Secretary will forward a copy of the written ruling to the Board, the Board's legal counsel, the City's legal counsel, the Appellant or the Appellant's Representative, the appropriate Department Manager, and the Human Resources Director.

VII. Time Line

Thirty (30) calendar days prior to hearing – Pre-hearing conference..

Five (5) calendar days before pre-hearing conference – Hearing materials submitted to the Secretary.

No later than ten (10) calendar days after pre-hearing conference – Motions submitted to Secretary. Opposing party has five (5) calendar days to submit responses.

Within five (5) business days after the hearing – The Board renders its advisory opinion.

Thirty (30) days of receipt of the Board's advisory opinion (absent special circumstances), the City Manager issues final decision.