

Presented by: The Manager
Introduced: 05/18/2009
Drafted by: J.W. Hartle

RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2471

A Resolution Adopting Revisions to the Personnel Board Rules of Procedure.

WHEREAS, the Personnel Board Rules outline the procedures that govern labor-management disputes before the Personnel Board; and

WHEREAS, Personnel Board Rules also outline procedures related to appeals and employee grievances; and

WHEREAS, Personnel Board Rules must be accurate, internally consistent, and in compliance with state and federal law; and

WHEREAS, the Personnel Board Rules should reflect modern human resource management practices; and

WHEREAS, from time to time, the Personnel Board Rules require review and update; and

WHEREAS, the Human Resources Division has reviewed and revised the Personnel Board Rules, and the Personnel Board, at its April 6, 2009, regular meeting approved the proposed changes; and

WHEREAS, the Assembly Human Resources Committee reviewed the proposed changes at its meeting on April 27 and recommended adoption by the Assembly.

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Amendment of Rules. That the Personnel Board Rules are amended by the revisions shown in the attached Exhibit "A" entitled, Rules of the City and Borough of Juneau Personnel Board.

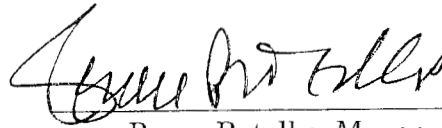
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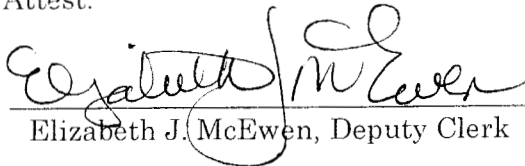
Section 2. Effective Date. This resolution shall be effective immediately upon adoption.

Adopted this 18th day of May, 2009.



Bruce Botelho, Mayor

Attest:



Elizabeth J. McEwen, Deputy Clerk

RULES
OF
THE CITY AND BOROUGH OF JUNEAU PERSONNEL BOARD
AND
THE LABOR RELATIONS CODE, CBJ 44.10

As Amended May 18, 2009

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RULE 1 – SCOPE AND AUTHORITY

1.01 Scope

These rules govern procedures before the Juneau Personnel Board, hereinafter called the “Board.” The Personnel Board was formed under the Labor Relations Ordinance of the City and Borough of Juneau, Alaska, CBJ 44.10 (Ordinance). The Board’s scope was amended by Ordinance 94-12, adopted March 21, 1994, to combine the duties of the functions of the Juneau Employee Relations Board and the Juneau Personnel Board.

1.02 Authority

These rules are adopted pursuant to CBJ 44.05.060.

1.03 Construction of the Rules

The rules shall be liberally construed to effectuate the purposes of CBJ 44 .05 and 44.10 and to secure the just and speedy determination of every proceeding.

1.04 Purpose

These rules prescribe procedures and basic principles which the Board will utilize in effectuating the purpose and policies of the CBJ 44.05 and 44.10.

1.05 Severability

If any provision of these Rules and Regulations or any application thereof to any person or circumstance is held invalid, the remainder of these rules and regulations and the application to other persons or circumstances shall not be affected thereby.

RULE 2 – DEFINITIONS

2.01 Appropriate Bargaining Unit – Means the bargaining unit designated by the Board, to be appropriate for the purpose of collective bargaining.

2.02 Board – The Juneau Personnel Board as established by CBJ 44.05.060.

2.03 Bulletin Board – Means any bulletin board, electronic or physical, maintained in a department, division, agency or other work location, which is used to post items of interest to employees in general.

2.04 Certified Employee Organization – Means the organization recognized by the Board which is, and shall remain, the exclusive representative for all of the employees in an appropriate bargaining unit for the purpose of collective bargaining, until it is decertified or dissolved.

2.05 Charging Party – The party charging that an unfair labor practice has been committed.

2.06 Community of Interest – Means a group of positions that share a common work location and general body of work within the same department. A community of interest may not include employees from two or more departments. A bargaining unit may be comprised of one or more communities of interest.

2.07 Days – Means calendar days.

2.08 Employee Organization – Includes any labor, professional or employee organization in which employees participate and which exists for the primary purpose of representing employees in their employment relations.

2.09 Fact Finding – Investigation of a labor dispute by an individual appointed by the Board. The fact-finder issues a report which describes the issues involved and makes recommendations for settlement.

2.10 Mediation – Means an attempt by a third party to assist in negotiations or in the settlement of a dispute between management and a certified employee organization without taking sides. The mediator provides suggestions, advice, or alternative methods of reaching agreement short of dictating its provisions.

2.11 Party – Means any employee, group of employees, the employer, all employee organizations, and any other person or persons having a special interest in negotiations between the employer and its employees.

2.12 Person – Includes one or more individuals, employee organizations, associations, corporations, or legal representatives.

2.13 Proof of Service – A sworn statement that the service of documents as required by these rules has been made. The statement shall contain a list of the parties served and indicate the date of service.

2.14 Service or Serve – Means service of a document required by these rules, by person or certified U.S. mail, with return receipt requested, postage prepaid and addressed to the party at his last known address.

2.15 Time – In computing any period of time prescribed or allowed by these rules by order of the Board or by another applicable ordinance or law, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or a holiday, in which event the last day shall be the next day which is not a Saturday, Sunday or holiday, when publishing or posting a notice the day of publication or posting is not counted.

2.16 Unfair Labor Practice – Means the commission of an act designated as an unfair labor practice in CBJ 44.10.140.

RULE 3 – ADMINISTRATION AND MEETINGS

3.01 Organization

The Board shall appoint from its membership a chair and vice chair at the regular meeting prescribed in Rule 3.06.

3.02 Office of the Board

The Office of the Board is Room 206, Municipal Building, 155 South Seward, Juneau, Alaska 99801.

3.03 Duties and Authority of the Chair

The chair shall preside at all meetings of the Board, act as spokesperson for the Board, and have such authority and perform such duties as shall be delegated by the Board.

3.04 Vice Chair

In the absence of the chair the vice chair shall have authority of and perform all duties of the chair.

3.05 Meetings

The Board may convene the following types of meetings:

1. Regular
2. Special

All meetings of the Board are subject to the Open Meetings Act.

3.05.01 Executive Sessions

After convening in a regular or special session, the Board may recess to an executive session in accordance with applicable state law.

3.06 Regular Meetings

The Board shall hold a regular meeting each year on the second Tuesday of the month following the effective date of Assembly appointment to the vacancy which occurs due to annual expiration of a term. The meeting shall be in the Assembly Chambers of the Municipal Building unless the chair, seven days prior to the regular meeting, designates another location.

3.07 Special Meetings

A special meeting may be ordered at any time by the chair or by a member of the Board when a request for action by the Board is submitted by any party who may request Board action as set forth in these rules or by CBJ 44.05 and 44.10. At least twenty-four hours before the meeting notice shall be given each Board member designating the time, place and purpose of a special meeting, or written notice shall be left at his or her usual place of residence at least twenty-four hours before the meeting. Copies of the notice shall also be delivered to a newspaper of general circulation in the municipality and to the commercial radio and television stations operating in the municipality. No business may be transacted at any special meeting or hearing except as stated in the notice of the meeting.

3.07.01 Continued Meetings

The Board, hearing officers or fact-finder may, at its discretion, continue a meeting or hearing from day to day or adjourn it to a later date or another place by announcement thereof at the meeting or hearing or by other appropriate notice.

3.08 Public Meetings

All meetings of the Board are open to the public except as set forth in Rule 3.05.1.

3.09 Submission of Documents

Submission of any document concerning collective bargaining shall be given to the CBJ Clerk and shall be deemed a filing of that document with the Personnel Board. Documents submitted to the CBJ Clerk shall be in four copies unless the Board has ordered that a different number be submitted. The date of filing shall be the date and time of receipt of the documents by the CBJ Clerk.

3.10 Staff to the Board

The Board will designate a person to act as the Clerk to the Board. The Clerk shall forward all requests for action by the Board to the Chair, prepare the agenda at the request of the Chair, give proper notice for all meetings, take or provide for the taking of all minutes, recordings and transcripts of proceedings required by the Board, and provide any other support required by the Board to carry out the prescribed duties.

3.11 Rules of Order

Roberts Rules of Order shall guide the Board in its non judicial and non administrative proceedings.

3.12 Seconds to Motions

Motions need not be seconded.

3.13 Quorum

Three members of the Personnel Board shall constitute a quorum. The prevailing vote of at least three members of the Board shall be required for official action.

3.14 Special Orders

The Board may issue special orders to facilitate its proceedings in a particular case.

3.15 Proposed Rules

The Board may issue proposed rules to add to or amend the existing rules. Such proposed rules shall be presented to the Assembly. The Assembly may, by resolution, approve or modify in whole or part, any rule presented to them by the Board.

3.16 Posting of Proposed Rule Changes

At least five (5) days prior to the presentation to the Assembly, of proposed changes to the Rules, the Board shall post the proposed changes on the CBJ website and provide notice of the proposed changes to affected employee organizations.

RULE 4 – BARGAINING UNITS

4.01 Bargaining Units by Motion

The Board, upon its own motion may determine the appropriate bargaining unit(s).

4.02 Bargaining Unit by Petition

The City Manager, an employee, or a representative of one or more employees may petition the Board for a determination of an appropriate bargaining unit. Such petition shall include a description of a proposed bargaining unit; the work location and classification of the employees sought to be included in the unit; or relevant information requested or required by the Board. A petition by an employee or employee representative shall allege, and be supported by affidavit or other evidence satisfactory to the Board which shows sufficient employee interest in accordance with 5.02.1 to justify Board consideration of the petition.

4.03 General Criteria for Bargaining Units

The general criteria for bargaining units shall be as follows:

1. A bargaining unit shall not be considered an appropriate unit if it includes any of those employees exempted from collective bargaining by CBJ 44.10.050.
2. A bargaining unit shall be as large as is reasonable, and unnecessary fragmenting shall be avoided.
3. Any group of employees determined by the Board pursuant to Rule 4.10 to have a community of interest who by a majority vote of the employees in said group, elect to be excluded from collective bargaining, shall not be included within a bargaining unit.

4.04 Rejection of Petitions

If the Board determines that there is not the requisite showing of interest for a determination of an appropriate bargaining unit it shall dismiss the petition. If the Board determines that the petition does not fulfill the requirements as set forth in Rule 4.02 it may return it to the petitioners with leave to amend within a specified time.

4.05 Determination of Bargaining Units

The Board on its own motion, or upon receipt of a petition filed under Rule 4.02, may determine appropriate bargaining units. The Board shall hold a public hearing as set forth in Rule 9, and based on findings of fact, may specify one or more bargaining units based on the general criteria as set forth in Rule 4.03. When hearing such a question upon petition, the Board may certify the bargaining unit it determines to be appropriate whether or not such unit is the same as a petitioned-for unit. The Board shall notify all employees of the certified bargaining units and, upon request, inform any employee

organization which has requested such notice. Failure to notify any such employee organization shall not constitute a fatal defect.

4.06 Appeal to Assembly

The Board shall allow twenty days from the date of filing its decision for an appeal to be made to the Assembly as to the appropriateness of the bargaining unit. The Assembly shall hear the appeal as provided by ordinance.

4.06.1 Appeal Not Filed

If at the conclusion of the twenty days an appeal has not been filed with the Assembly, the action of the Board is final.

4.07 Who May Appeal the Appropriateness of a Bargaining Unit

A petitioner, the City Manager, or a permanent or probationary employee who is not exempted by CBJ 44.10.050 or any person or employee organization which participated in the hearing on the determination of the appropriate bargaining units may appeal the appropriateness of the bargaining unit to the Assembly as provided by Charter and Ordinance.

4.08 Board Action on Notice of Appeal

The Board shall take no further action relating to the bargaining unit until the Assembly has made a final determination of the appeal under the CBJ appeals code, CBJ 01.50.

4.09 Bargaining Unit as Approved by the Assembly

When the Assembly, after consideration of the appeal, determines the appropriate bargaining unit the Assembly shall so notify the Board and the Board may then proceed with matters relating to the bargaining unit filed with it subsequent to its initial certification.

4.10 Community of Interest Group

Any group of employees as set forth in Rule 4.03 (3) may elect to be excluded from collective bargaining according to the following procedures:

1. A petition signed by sufficient employees to constitute a majority of the proposed group shall be submitted to the Board, setting forth the definition of the group and stating the desire of the petitioners to have the group exempted. The petition shall contain a list of all positions in the proposed group and shall be identified by Position Control Number (PCN) and Job Classification Title. The Board may accept petitions lacking Position Control Numbers and Titles prior to the hearing, or the Board may waive such requirements where it believes such Numbers and Titles are not needed to define the proposed group.
2. After notice to all members of the proposed group, to management and to any certified employee organizations representing any member of the proposed group, the Board shall by hearing decide whether the group is appropriate for exclusion by reason of community of interest. In reaching such determination, the Board shall give substantial weight to employee desires, local conditions, and shall be guided by relevant decisions of the National Labor Relations Board. No petition shall be granted allowing a group to be exempted that includes employees of two or more departments. The Board may modify, reject, or approve the proposed group.
3. A petition under subsection (1) above may be filed:
 - (a) at any time prior to the actual commencement of negotiations where no contract is in effect. The initial submission or exchange of proposed contracts does not constitute the commencement of negotiations. Negotiations shall be deemed to have commenced when the designated negotiators from management and the employee representative of the bargaining unit meet for the purpose of negotiating the terms of a contract, or
 - (b) at any time during the period beginning at the opening of business on the one hundred and twentieth day and ending at the close of business on the one hundred sixteenth day prior to the expiration of a contract which is in effect.

The Board shall act expeditiously upon petitions filed under this rule. If the Board approves the proposed or a modified group, it shall order an election within the approved group upon the question of whether the group shall be excluded from collective bargaining.

4. The election shall be conducted in the manner prescribed by Rule 10 to the extent that the procedures there under are compatible with a community of interest group election; except, the Board may modify any such procedures it deems appropriate for the conduct of the election. The Board may modify election time

requirements when negotiations are imminent and either management or the certified employee representative requests an expedited election.

5. Any group which has been exempted under this section may again be included in the bargaining unit from which it was exempted. Such reinclusion shall be accomplished by the same petition procedure outlined in subsection (1) through (4) above.
6. The exclusion or inclusion of a community of interest group shall be effective upon the certification of the election results by the Board; provided, if the certification occurs during a period when the affected bargaining unit is under a collective bargaining agreement with the municipality, the exclusion or inclusion shall not be effective until the termination of such agreement; and provided further, if the certification occurs during such period members of a group which has voted to be excluded shall not have the right to vote on the acceptance or rejection of a proposed collective bargaining agreement and members of a group which has voted to be included may vote on a proposed collective bargaining agreement if such group will be a part of the bargaining unit directly affected by the proposed agreement.

**RULE 5 – PETITIONS FOR REPRESENTATIVE CERTIFICATION,
CLARIFICATION AND DECERTIFICATION**

5.01 Petition for Representative Certification

1. An employee, or group of employees or an organization acting on their behalf may petition the Board for appropriate action, alleging that thirty percent of the employees of a bargaining unit which has been determined to be appropriate by the Board:

- a. Want to be represented for collective bargaining by an employee organization as exclusive representative.

2. The City Manager may petition the Board for appropriate action alleging that one or more employee organizations have presented to the City Manager a claim to be recognized as the representative of the majority of employees in a certified unit.

5.02 Content of a Representative Certification Petition

A representative petition shall be addressed to the Board and contain the following where applicable:

1. The description or name of the certified unit claimed for purpose of exclusive representation by the petitioner.
2. A statement that at least thirty percent of the permanent and probationary employees in the certified bargaining unit want to be represented by the petitioner for the collective bargaining purposes.
3. Name and affiliation, if any, of the petitioner, and its mailing address, e-mail address, and phone number.
4. A pledge that the petitioner, the employees represented and any affiliated organization(s), agree not to strike or impose an obligation to conduct, assist or participate in a strike, work stoppage, or work slowdown.
5. A declaration by the person signing the petition that its contents are true and correct.
6. The signature of petitioner's representative, including title, e-mail address, and telephone number.

5.02.1 Showing of Interest

A petition under Rule 5.02 shall be accompanied by a showing of interest of at least thirty percent of the employees who are in the unit claimed to be represented and who are employed by the CBJ on the date when the petition is filed. The showing of interest shall

consist of signed and dated authorization cards containing the employee's job classification, and position or position control number. Such signatures must be obtained during the sixty days preceding the filing of the petition and actual production of the cards is required by the Board. Only one set of signature cards needs to be submitted with any petition.

5.03 Petition for Clarification of Unit or Amendment of Certification

An employee or an employee organization certified by the Board or currently recognized by the CBJ or the City Manager may file a petition for clarification of a bargaining unit or an amendment to the certification.

5.04 Content of a Clarification of Unit or Amendment of Certification Petition

The petition for clarification or amendment shall contain the following information:

1. A description of the present bargaining unit and the date of the certification or recognition.
2. Proposed clarification or amendment of the unit; and
3. A statement by the petitioner setting forth all reasons as to why clarification or amendment is requested.

5.05 Petition for Decertification

An employee or group of employees not exempted by CBJ 40.10.050 or an organization acting on their behalf may petition the Board for appropriate action, alleging that thirty percent of the employees of a bargaining unit which has been determined to be appropriate by the Board, assert that the employee organization, which has been certified by the Board as bargaining representative, is no longer the representative of the majority of the employees in the bargaining unit. Where the petition is filed by an employee organization, the petition upon decertification of the certified representative shall be treated as a petition for certification.

5.06 Content of a Petition for Decertification

Petition for decertification of an employee organization previously certified by the Board or currently recognized by the City shall contain the following information:

1. A statement or petition showing at least thirty percent of the permanent employees assert that such employee organization no longer represents a majority of the employees in the unit currently recognized or certified;
2. The information set forth in Rule 5.02 where applicable; and
3. Signed cards as set forth in Rule 5.02.1.

RULE 6 – PROCESSING OF PETITIONS

6.01 Review of Petitions

When one or more petitions are filed under the provisions of Rules 5.01, 5.03 or 5.05 the Board shall convene to review the petitions. The Board may require the petitioners to provide any other relevant facts.

6.02 Rejection of Petitions

If the Board determines that there is not the requisite showing of interest it shall dismiss the petition. If the Board determines that the petition does not fulfill the requirements as set forth in Rule 5 the Board may dismiss the petition or it may return it to the petitioner with leave to amend within a specified time.

6.03 Petitions Not To Be Considered

The Board shall not consider a Representative Certification Decertification petition:

1. If a valid election has been held within the preceding twelve months in the bargaining unit, or
2. for a bargaining unit in which there is in effect a valid collective bargaining agreement, except during the period beginning at the opening of business on the one hundred twentieth day and ending at the close of business on the one hundred sixteenth day prior to the expiration of a contract which is in effect. However, no collective bargaining agreement may bar an election upon petition of persons in the bargaining unit, but not parties to the agreement, if more than three years have elapsed since execution of the agreement, or the last annual renewal, whichever is later.

6.04 Acceptance of Petitions

Upon determination that a valid petition has been presented, the Board shall notify the petitioner and all affected persons and parties of the petitions, and the dates set for filing of additional responsive material.

6.05 Notice of Petition for Representative Certification

Upon determination that a representation petition is valid, the Board shall cause a notice of the petition to be posted in the work areas of the employees in the certified bargaining unit, and sent to the petitioner and the City Manager. The notice shall contain the following information:

1. The name of the petitioner.
2. A statement that interested parties will have fifteen days from the date of the posting of the notice to file:

- a. a petition
- b. an objection from community of interest groups to be included in the bargaining unit.

6.05.01 Who May Intervene

An employee organization may intervene as a candidate for representative of a bargaining unit by filing a petition. The petition shall contain the information as set forth in Rule 4.02, and shall be accompanied by ten percent showing of interest in the manner prescribed in Rule 5.02.1.

6.06 Notice of Petition for Clarification or Amendment

Upon determination that a petition for clarification or amendment is valid, the Board shall cause notice of the petition to be posted in the work areas of the employees in the appropriate bargaining unit(s) and sent to the petitioner, City Manager and every certified employee organization. The notice shall contain the following information:

1. The name of the petitioner.
2. A brief statement describing the points to be clarified or the subject matter of the amendment.
3. A statement that interested parties will have fifteen days from the date of posting of the notice to file an objection.

6.06.1 Who May Object

Any person or organization entitled to notice under Rule 6.06 and any permanent or probationary employee who is not exempted by CBJ 44.10.050, may object.

6.06.2 Form of Objection

The objection shall be in writing and contain the name of the organization or person filing and be signed by the authorized representative of the organization or by the person submitting the objection.

6.07 Notice of Petition for Decertification

Upon determination that a petition for decertification is valid, the Board shall cause notice of petition to be posted in the work areas of the employees in the appropriate bargaining unit involved and a copy of the petition to be sent to the petitioner, the representative of the employee organization and the City Manager. The notice shall contain the following information:

1. Name of petitioner.
2. A description or name of the certified bargaining unit involved.

3. A statement that interested parties will have fifteen days from the date of posting of the notice to file an objection.

6.07.1 Who May Object

Any person or organization entitled to notice under 6.07 and any permanent or probationary employee who is not exempted by CBJ 44.10.050, may object.

6.07.2 Form of Objection

The objection may be a statement that the recognized employee organization does in fact represent a majority of the employees in the bargaining unit. The statement may be accompanied by proof in the form of signed cards as set forth in Rule 5.02.1 or by a certified roster of all employees in the bargaining unit showing that a majority are members, or by other means as established by the Board. The statement shall be in writing and signed by the person or authorized representative of the organization making the objection.

6.08 Time Limit for Intervention or Objection

Those allowed to intervene or object shall, within fifteen days from the date of notice of petition, file with the Board their intervening petition, or make an objection. No intervention or objection shall be considered by the Board unless it is filed within the fifteen day period.

RULE 7 – INVESTIGATION OF PETITIONS

7.01 Hearing of Petitions

At the conclusion of the fifteen day waiting period the Board may schedule a hearing to investigate a petition for certification, for clarification of an amendment, for decertification, intervening petition(s) and any objection(s) which have been filed.

7.02 Notice of Hearing

When the Board is required to hold a hearing pursuant to Rules 5, 6 and 7, the Board shall give written notice of the hearing at least five days prior to the date set for the hearing. The notice for the hearing shall be given to the petitioner, the City Manager, and any party who filed an objection or petition to intervene as set forth in Rule 6, and shall be delivered to a newspaper of general circulation in the municipality, and delivered to the commercial radio and television stations in the area.

7.03 Contents of Notice

The notice shall contain the following information:

1. a statement of the time, place and nature of the hearing;
2. a description of any bargaining unit or units which may be involved;
3. the name of the employer, petitioner, objections and intervenors, if any;
4. a statement of the legal authority and jurisdiction under which the hearing is to be held; and
5. the respective positions of the parties in order to simplify and clarify the issues involved.

7.04 Pre-Conference

The Board may require a conference prior to the hearing of parties required to be notified under Rule 7.02. At the conference, the parties shall be required to endeavor to simplify and clarify the issues involved and the presentation of testimony and the production of evidence.

7.05 Conduct of Hearing

All oral testimony at the hearing shall be given under oath. Only the petitioner, the employer and any party who has objected or intervened, has the right to present evidence, call witnesses, and cross examine. The Board may question any witness.

7.06 Written Briefs

The Board may require the filing of written briefs.

7.07 Standard of Evidence

The Board shall not be bound by the rules of evidence prevailing in courts.

7.08 Persons Required to Testify

The Board, on its own initiative, may require any person it deems appropriate to appear and testify at the hearing and to produce evidence, and may compel such attendance by issuing a subpoena and a subpoena duces tecum.

7.09 Groups Excluded From Collective Bargaining

When a group of employees as set forth in Rule 4.03 (3) requests to be excluded from collective bargaining, the Board, after a hearing on the matter, may determine that the group constitutes a group having a community of interest and that a majority of the members of the group voted to be excluded. Such group shall be excluded from collective bargaining.

7.10 Question of Community of Interest

If the Board finds there is a question of community of interest, the Board may modify the group, reject the group in whole or part, require a new vote or take other action as the Board deems necessary.

7.11 Question of Representation – Election

At the hearing, if the Board determines there is a question of representation by one or more intervening petitions, it shall order a secret ballot election within the bargaining unit. The ballot shall contain two questions. First, do the employees desire to be represented; second, if the first question succeeds, which employee organization should represent the unit. The election shall be held within thirty days of the date when the Board determines there is a question of representation. If the employees vote to be represented and if an organization receives a majority of votes cast in an election, it shall be certified by the Board as the exclusive representative of all the employees in the bargaining unit.

7.11.1 Failure On First Question

When the employees fail to cast a majority of votes in favor of being represented by an employee organization, the Board shall dismiss the petition and not consider the second question on the ballot.

7.12 Run-Off Election

In an election in which the employees vote to be represented by none of the choices on the second question on the ballot receive a majority of the votes cast, a run-off election

shall be conducted. There shall be two questions as in the first election, except that the second question shall be a choice between the two representatives receiving the largest number of ballots cast in the first election. If the employees vote to be represented, the organization receiving the majority of votes cast in the election shall be certified by the Board as the exclusive representative of all the employees in the bargaining unit.

7.12.1 Failure On First Question

When the employees fail to cast a majority of votes in favor of being represented by an employee organization, the Board shall dismiss the petition and not consider the second question on the ballot.

7.13 Recognized Organization

If no intervention occurs within the fifteen day waiting period, and at the hearing the Board determines there is not a question of representation after appropriate investigation and verification of the majority status of the employee organization, the Board shall within fifteen days of the conclusion of the hearing, certify that organization is recognized as the representative of the employees in the bargaining unit.

7.14 Lack of Majority Status

When there has been no intervention within the fifteen day waiting period, and at the hearing the Board finds the petition does not have majority status, the Board shall call for an election by secret ballot within thirty days. The secret ballot shall list no representation and representation by the petitioner. If the employees cast a majority of votes for no representation, the Board shall dismiss the petition. If the employees cast a majority of votes for representation by the petitioner, the Board shall certify that employee organization as the exclusive representative of all the employees in the bargaining unit.

7.15 Question of Clarification of Unit or Amendment of Certification

If no objections have been received during the fifteen day waiting period, the Board, at the hearing, may accept the statement of clarification or the amendment, modify or reject it. Final determination must be made within fifteen days of the hearing.

7.15.1 Objection Filed

When an objection is made during the fifteen day waiting period, the Board shall consider all proposals before it at the hearing, and may accept, modify or reject any one or more of the proposals. Final determination shall be made within fifteen days of the hearing.

7.16 Appeal to Assembly

The action by the Board in accepting, modifying, or rejecting a statement of clarification or an amendment to an established bargaining unit may be appealed to the Assembly. The appeal procedure as set forth in Rule 4.06 through 4.10 shall be followed.

7.17 Question of Decertification

When an objection is received by the Board prior to the conclusion of the fifteen day waiting period, the Board shall hold a hearing. The burden of proof lies with the petitioner to show the recognized employee organization does not represent a majority of the members of the bargaining unit; the Board may then:

1. Dismiss the petition if it is shown the employee organization does represent a majority of the employees;
2. Decertify the employee organization if it is shown they do not represent a majority of the employees; or
3. Call for an election by secret ballot as stated in Rule 7.14 if there is a question whether the employee organization does represent a majority of the employees.

When a majority of employees vote that the employee organization does represent them, the Board shall dismiss the petition. When a majority of employees vote that the employee organization does not represent them, the Board shall decertify that employee organization. Final determination must be made within thirty days of the hearing.

7.18 Determination In Writing

Any determination of the Board made pursuant to Rule 7.09, to 7.18 shall be in writing and shall contain findings of fact as well as final conclusions.

RULE 8 – RECOGNITION BY MUTUAL CONSENT

8.01 Mutual Agreement

The City Manager and an employee organization may agree that such organization is to be the representative of the employees within a bargaining unit as established by the Board.

8.02 Terms of Recognition Agreement

The agreement shall state the bargaining units as established by the Board, the information requested in Rule 5.02 except the thirty percent showing of interest as set forth in Rule 5.02.1 is not required, and a statement that the CBJ and the employee organization are mutually agreed that this organization is the one to represent the bargaining unit(s) and state any reasons to support this conclusion and state the date when the agreement shall be effective.

8.03 Filing Recognition Agreement

If the labor or employee organization desires to obtain certification by the Board, the recognition agreement shall be filed with the Board at least thirty days before its effective date. The Board shall post the recognition agreement within the established bargaining unit(s) at least twenty days before the effective date of the recognition agreement, and may provide for other means of appropriate effective notice.

8.03.1 Contents of Notice

The notice shall also state that an employee organization may intervene with a thirty percent showing of interest as set forth in Rule 5.01 or that ten percent of the permanent and probationary employees of the appropriate bargaining unit may object to the recognition agreement. When such intervention or objection is made, the proposed organization will not be recognized. The notice shall set the deadline for filing an intervention petition or to make an objection at fifteen days from posting of the recognition agreement.

8.04 Recognition by Mutual Consent Refused

If the recognition agreement is not filed as provided by Rule 8.03 or if within fifteen days of the posting of the recognition agreement, an employee organization intervenes pursuant to Rule 5.01 or ten percent of the permanent and probationary employees of the established bargaining unit object to the recognition agreement, the Board shall refuse to certify the employee organization recognized by mutual consent.

8.05 Intervention Petition

When an intervention petition accompanied by a thirty percent showing of interest is filed as set forth in Rule 8.04, the Board shall treat this petition as a petition filed pursuant to Rule 5.01 provided the petition meets the other requirements of Rule 5.

8.06 Certification of Recognition Agreement

If no intervention of objection occurs within the fifteen days of the posting of the agreement, the Board shall, after appropriate investigation and verification of the majority status of the employee organization, certify the employee organization recognized by the agreement as a representative of the appropriate bargaining unit. The burden of proof of majority status shall be on the employee organization and the CBJ.

RULE 9 – HEARING PROCEDURES

9.01 Hearings

When the Board is required to hold a hearing, on matters where the hearing procedures are not specifically set forth in these rules, the procedures in this rule will govern.

9.02 Notice of Hearing

The Board shall give written notice of the hearing to all interested parties or their representatives at least five days prior to the date set for the hearing unless the Board determines from the circumstances that a shorter time is appropriate. Such notice shall be delivered to a newspaper of general circulation and to commercial radio and television stations operating in the municipality. The Board shall also require the notice be posted in work areas of employees effected by the subject of the hearing.

9.03 Contents of the Notice

The notice shall contain the following information:

1. a statement of time and place of the hearing;
2. the subject matter of the hearing; and
3. a statement of the legal authority and jurisdiction under which the hearing is to be held.

9.04 Hearing Participants

The participants in a hearing conducted under Rule 9 shall be limited to the probationary and permanent employees not specifically exempted in 4.03 (1), to the CBJ management, to employee organizations, and to representatives of employee organizations which can be a certified bargaining agent. If the Board determines there are other parties which should be included in the hearing it may specify the parties.

9.05 Conduct of Hearing

Unless otherwise designated by these rules or by the Board in its notice of the hearing, the hearings conducted under Rule 9 are to be investigatory and not adversory in nature. All oral testimony at the hearing shall be given under oath and there shall be no right to cross examination, unless the Board has declared the hearings to be adversory in nature. The Board may examine witnesses.

9.06 Written Briefs

The Board may require the filing of written briefs.

9.07 Persons Required to Testify

The Board, on its own initiative, may require any person it deems appropriate to appear and testify at the hearing and to produce evidence, and may compel such attendance by issuing a subpoena and subpoena duces tecum.

9.08 Hearings Open to Public

Hearings conducted under Rule 9 are open to the public, unless otherwise provided in these rules.

9.09 Standard of Evidence

The Board shall not be bound by the rules of evidence prevailing in courts.

RULE 10 – ELECTIONS

10.01 General

All elections ordered by the Board shall be by secret ballot and shall be conducted under supervision of the Board. There shall be no electioneering within 100 feet of the polling place. The secret ballot shall be accomplished manually.

10.02 Election Agent

The Clerk of the Board or another person of the Board's choosing shall be designated as the election agent. Subject to approval of the Board, the election agent may appoint one election officer to conduct elections at each polling place and one or more election aides as required to assist in the election. An election agent, officer or aide shall not be an interested party to the issue or issues to be voted upon. The election agent shall conduct the election in the manner as prescribed by the Board, and shall present the results of the election to the Board.

10.03 Date, Time, and Location

The Board shall designate the day of the election and shall determine the hours of the election based on the total number of employees involved, the location and shifts of the employees and other factors which the Board may consider appropriate. The number of locations will be determined by the Board based on the number and location of the employees and shall be mutually agreed to by the CBJ and the affected employee organization(s). When all employees listed on the roster of eligible voters have voted, or the time set by the Board has passed, the polls may be closed.

10.04 Notice of Election

Notices of election shall be furnished by the Board to all the employee organizations appearing on the ballot and to the Clerk of the Board, who shall cause them to be posted in work areas of the employees affected and other appropriate places as directed by the Board. The notices shall be posted at least fourteen days prior to the date of the election. The notice shall contain the following information:

1. the details and the procedures for the election;
2. the appropriate bargaining unit;
3. the eligibility period;
4. the dates, hours, and places of the election; and
5. the sample ballot.

10.05 Voting Eligibility

All permanent and probationary employees in the bargaining unit who were listed on the employment rolls of the City as of fourteen days before the date of election and are still on that roll at the election date, shall be eligible to vote in the election. The CBJ shall submit an alphabetical roster of employees eligible to vote to the Board and the employee organization representative at least ten days prior to the election day. The election agent will seek the parties' agreement on the contents of the employees listed. Where no agreement is reached on one or more of the employees listed, such employee will be advised of the right to cast a challenged ballot.

10.06 Voting Procedures

Prior to receiving a ballot from the election agent or designee:

1. each voter shall be asked to present photo identification;
2. the name of the voter shall be located upon the roster of eligible employees;
3. observers shall be given an opportunity to verify the identification of the voter;
and
4. the voter shall sign opposite his or her name on the roster.

Each voter shall then mark his or her ballot appropriately in secret. The voter shall not sign the ballot. The election agent or designee shall remove the tab from the ballot and under the scrutiny of the election agent or designee, the voter shall deposit the ballot in the ballot box. The ballot box shall be locked or sealed at all times during the election and shall not be opened until the close of the election. If a voter inadvertently spoils a ballot he or she may return it to the election agent or designee who shall deliver another ballot to the voter. The election agent or designee shall preserve the spoiled ballot for the time of counting ballots.

10.07 Absentee Balloting

The Board may determine whether it is appropriate to provide for absentee balloting for each election. If the Board makes such a determination, it shall at that time establish rules and procedures for the conduct of absentee voting and to guard against fraud, mistakes, ineligible voting and the like.

10.08 Observers

The CBJ and all employee representatives who are party to the election may be represented at the polling places by no more than two observers of their own choice. No later than three days prior to the election the CBJ and employee representative shall provide to the election agent the names of the observers. Observers shall be subject to

such reasonable limitations as the Board may prescribe and they shall refrain from electioneering or attempting in any way to influence any voter at or near the voting place.

10.09 Challenge Ballots

, Prior to the time the voter casts a ballot, the parties, and authorized observer, the election agent or designee, or the Board may challenge for good cause the eligibility of any person to vote in the election. Challenges made after the ballot has been placed in the ballot box will not be considered. A person challenged as an eligible vote shall be permitted to vote in secret.

10.09.1 Voting a Challenged Ballot

When a voter has been challenged the voter shall be delivered a ballot and shall mark it in secret. The challenged voter shall not sign the ballot. The election agent or designee shall remove the tab from the ballot and under his or her scrutiny the voter shall place the ballot in an unmarked envelope and seal it. The voter shall then be given an envelope marked "challenged," with the PCN, employee number and employee name, the challenger's name and the reason for the challenge written on the envelope. The voter shall place the unmarked envelope containing the ballot in the envelope marked "challenged" and seal it and place it in the ballot box.

10.09.2 Challenged Ballots to be Separated

When the ballots are counted, the challenged ballots shall be separated and shall not be counted. If the challenged ballots could be determinative of the election, they shall constitute a basis for objection to the conduct of the election.

10.09.3 Challenge Withdrawn

Prior to counting of the ballots, any challenger may withdraw his or her challenge. If the challenge is so withdrawn, the ballot shall be removed from the challenged envelope and the unmarked envelope, and shall be mixed with the other unchallenged ballots in the ballot box in a manner that assures that it is undistinguishable from the other ballots.

10.10 Counting Ballots

The election agent or designees shall count the ballots immediately after the close of voting at the location where the voting took place. Only the election agent and designees shall handle the ballots. All ballots counted and uncounted shall be kept in view of the observers at all times until the tally of the ballots is completed. The election agent or designee may open ballots. The counting of the ballots may be by tally or by placing all ballots in one pile regardless of marking and then sorting the ballots into piles according to preferences shown on the ballot and counting the ballots in each pile.

10.11 Validity of Ballot

The validity of a ballot may be challenged on the grounds that it is torn, defaced, marked in an ambiguous fashion, or is otherwise defective. The election agent or designee will determine whether the objective intent of the voter in marking the ballot can be reasonably determined and, if so, determine it. If such intent cannot be reasonably determined, or if the ballot directly or indirectly identifies the voter, the ballot shall be declared void and it shall be preserved for review by the Board which will make the final determination as to the validity of the ballot.

10.12 Election Agent Certification

The election agent shall certify the results of the election. If there is agreement as to the results, the certification shall be signed by the observers. At the conclusion of the count, all voted, void and unused ballots shall be sealed in separate envelopes on the outside of each of which is noted the contents of that envelope. In two other envelopes the election agent or designee shall seal all tally sheets and roster of voters. All challenged ballots shall be sealed in an envelope, marked "challenged ballots" and the number of challenged ballots shall be noted on the outside of the envelope. These envelopes and the certificate of results shall be delivered without delay to the election agent. Within twenty-four hours after the results of the election have been determined, all parties to the election shall be notified of the results and the results may be posted as directed by the Board.

10.13 Time for Filing Objections

Within five days after the results of the election have been furnished to all parties, any party may file an objection to the conduct of the election or to conduct affecting the results of the election. Copies of the objections shall be served simultaneously on all other parties by the party filing them, and a statement of service shall be made.

10.14 Board Investigation

After five days, but within not more than ten days after the results of the election have been furnished to all parties, the Board shall convene to investigate the validity of the election and take appropriate action.

10.15 Board Action on Objections Filed

If within the five day period following the notice of the results of the election, any party to the election has filed an objection, the Board shall investigate the objection. If the Board determines the objection is valid, the Board shall order appropriate action including, but not limited to, a new election.

10.16 Challenged Ballots Determinative to Election

When the Board determines the challenged ballots are determinative of the election, the Board shall treat the challenged ballots as an objection to the conduct of the election.

10.17 Investigation of Challenged Ballots

The Board shall investigate each challenged ballot and determine based on findings of fact, whether the employee challenged is eligible to have voted. When the Board determines that one or more challenged employees are eligible to have their ballot counted, the Board shall determine if the number of ballots which have been determined eligible to be counted could be determinative to the election, and in such an event they shall be counted in accordance with 10.17.1..

10.17.1 Counting Challenged Ballots

All ballots which have been counted shall be placed in the ballot box. The unmarked envelopes shall be removed from the outer envelope, and when all unmarked envelopes are removed and placed in the ballot box and mixed with the counted ballots. The Board shall then provide for a counting of all ballots as set forth in Rule 10.10.

10.18 Dismissal of Challenged Ballots

If the Board determines that employee(s) challenged were in fact not eligible to vote the Board shall dismiss those challenged ballots.

10.19 Certification of Election by Board

If no objections to the election are filed within five days after the results of the election have been furnished, the Board shall issue a certification of the results of the election. If no run-off election is to be held, the Board shall certify the bargaining representative where appropriate.

10.20 Run-Off Elections

, In an election in which the ballot provides for three or more choices of employee representative, if the Board determines that no choice received a majority of the ballots cast, and any objections have been disposed of, the Board shall conduct a run-off election within twenty-five days of the determination.

10.21 Employees Eligible to Vote in Run-Off Elections

The same eligibility date will be used to establish the roster of employees eligible to vote in the run-off election unless the Board specifies a new eligibility date to be used in the run-off election.

10.22 Contents of Ballot in Run-Off Election

The ballot in the run-off election shall provide for a selection as set forth in Rule 7.12.

10.23 Procedures for a Run-Off Election

All rules and procedures governing an initial election shall apply to a run-off election.

RULE 11 – MEDIATION AND FACT-FINDING

11.01 Scope

This rule governs the general procedures relating to mediation and fact-finding in employee relations disputes arising under CBJ Personnel Rules and 44.10.090.

11.02 Policy

It is the policy of the Board to encourage parties to voluntarily settle their differences. If the parties are unable to resolve their differences, either party may request the assistance of the Board. The Board shall assist the parties by providing mediation or fact-finding in order to promote cooperative relations between the CBJ and its employees, and to protect the public by assuring effective and orderly operations of CBJ government.

11.03 Notice of Impasse

If, after a reasonable period of negotiation over the terms of a collective bargaining agreement, a deadlock exists between the CBJ and a certified employee organization, either party to the negotiations may file a written notice of impasse with the Board and simultaneously serve a copy on the other party involved. The notice of impasse shall contain the following:

1. name, mailing address, zip code, e-mail address and telephone number of the certified employee organization and the name, e-mail address and telephone number of its principal representative to be contacted;
2. name, e-mail address and telephone number of the principal management representative to be contacted;
3. identification of the bargaining unit by nomenclature on the certification;
4. dates of negotiation sessions held;
5. a clear and concise statement of the issues in dispute;
6. a clear and concise statement of any other relevant facts;;
7. a statement noting whether the request is joint or unilateral; and
8. proof that a copy of the notice of impasse was served on other parties to the negotiations.

11.04 Board Action

The Board may, on its own initiative, determine after a reasonable period of negotiation over the terms of a collective bargaining agreement, that a deadlock exists between the CBJ and the certified employee organization or, upon notice by either party as set forth in Rule 11.03, or upon its own motion, appoint a competent, impartial, disinterested person to act as mediator in any dispute.

11.04.01 Parties May Select Mediator

The parties may agree upon a mediator. The Board shall ratify the appointment.

11.05 Mediator

The function of a mediator shall be to assist the parties in a dispute to arrive at a voluntary agreement. The mediator may hold separate or joint meetings with the parties or their representatives. Such meetings shall be public unless one of the parties or the mediator objects.

11.06 Mediators Report

The mediator shall meet with the parties and shall attempt to resolve the impasse in an expedient manner. If it becomes evident the parties cannot reach agreement, the mediator shall within ten days make a report to the Board in writing of the results of the mediation efforts, as follows:

1. a statement of the dates and duration of the meetings held;
2. a brief description of the unresolved issues which existed at the beginning of the mediation effort;
3. a brief statement of the issues resolved through mediation and the terms the agreement reached;
4. a statement of unresolved issues, if any; and
5. a recommendation as to whether or not the Board should invoke fact-finding with recommendations for settlement of the unresolved issues.

11.07 Fact-Finding

Upon the recommendation of the mediator, or the Board and with consent of both the CBJ and the certified employees' organization, the Board may appoint a neutral party to determine facts in the dispute and to make public recommendation. The function of the fact-finder shall be to meet with the parties involved in the impasse to investigate, inquire, or to conduct a hearing to determine the facts relating to the issues in dispute.

11.08 Notice of Fact-Finding Hearing

The Board shall give written notice at least five days prior to the date set for the hearing. The notice shall be given to each party and shall be delivered to a newspaper of general circulation in the municipality, and delivered to the commercial radio and television stations in the area.. Such a hearing shall be public unless one of the parties or the fact-finder objects.

11.09 Conduct of Hearing

The fact-finder may issue subpoenas to compel the attendance of witnesses and the production of books and papers relating to any matter under inquiry, investigation or hearing. He or she may administer oaths and affirmations. At the conclusion of a hearing the fact-finder may allow or require the parties to simultaneously submit written closing briefs within a specified period of time. Within fifteen days after receipt of closing briefs, or the conclusion of the hearing which ever is later, the fact-finder shall file a report and recommendations with the Board.

11.10 Board Action

Upon receipt of the report and recommendations, the Board shall promptly transmit copies thereof to the parties in interest. The parties to the impasse shall file with the Board a written notification of acceptance or rejection in whole or in part and the reasons therefore within fifteen days after receipt of the fact-finder's report and recommendations. The Board shall publish the findings of fact and recommendations for public information.

11.11 Final Determination by Assembly

If, upon conclusion of negotiation, and after use of mediation and fact finding as appropriate, no agreement is reached, all questions and disputes shall be referred to the Assembly for final determination. The Assembly shall thereupon hold a hearing upon the matters in controversy on at least seven days' notice, unless such notice is waived by the bargaining representative and the management representative. After hearing both parties, the Assembly shall reach a final determination of the issues. This determination shall be final and conclusive and binding upon both parties subject to the requirements of CBJ 44.10.170.

11.12 Unavailability of Mediator or Fact-Finder

In the event the mediator or fact-finder designated by the Board becomes unavailable, the Board may appoint another mediator or fact-finder for the purpose of further mediation or fact-finding or issuance of a report and recommendation on the record as made, or both.

RULE 12 – COMPLAINT OF AN UNFAIR LABOR PRACTICE

12.01 Filing of Charge

A charge that the CBJ, an employee organization or its representatives or members, individually or in concert with others, have engaged in or are engaging in any unfair labor practice as defined in the ordinance, or otherwise have violated or are violating CBJ 44.10 or rules or regulations issued thereunder, may be filed by a management representative, by a representative of any employee organization or by an individual employee or group of employees. Such charge shall be filed in a manner prescribed by the Board,...

12.01.1 Timeliness of Charge

A charge shall be deemed untimely and subject to dismissal to the extent that it is filed with the Board in excess of sixty days following occurrence or discovery of the alleged act or acts on which the charge is based, whichever is later.

12.02 Contents

Such charge shall contain, insofar as is known, the following information:

1. the full name, address and affiliation, if any, of the charging party, and the title of any representative filing charge;
2. the full name of each charged party (respondent);
3. a detailed description of the nature of the alleged prohibited practice, including the statutory provision or rule violated, the time and place of its occurrence, the name of persons having knowledge of the alleged unfair labor practice, and any other pertinent information; and
4. the remedy sought by the charging party.

The complaint shall be signed and contain a declaration, by the person signing, under penalty of perjury, that its contents are true and correct to the best of his or her knowledge and belief. The charging party shall have the burden of proving the charge made.

12.03 Service of Charge

The charging party shall file a copy of the charge with the Board and shall serve a copy on each respondent. Proof of service shall be furnished to the Board.

12.04 Board Preliminary Investigation

Within fifteen days of receipt of the charge, the Board or hearing officer appointed by the Board shall conduct a preliminary investigation. During the preliminary investigation, the complaint or accusation shall be reviewed in joint discussion with the parties involved, and informal attempts to resolve the matter shall be made by the parties. If such informal attempts are unsuccessful in disposing of the matter within thirty days from the date of filing of the charge, the matter shall then be further processed by the Board. The thirty day period may be extended if mutually agreed by the parties involved and the Board or the Board's designee.

12.04.1 Board Determination

At the conclusion of the preliminary investigation, the Board or hearing officer may issue an order dismissing the charge in whole or in part or it may order a hearing. The Board will direct a notice of hearing be served on the respondent(s) and all other parties involved. The Board may appoint a hearing officer to hear the complaint if one has not already been appointed.

12.05 Notice of Hearing

Such notice of hearing shall set forth the charge, and shall also fix the place and time not less than fifteen days from the issuance thereof, and shall specify whether the hearing will be conducted by the Board or by a hearing officer.

12.06 Answer to Charge Contained in Notice of Hearing

A respondent shall file an answer to the complaint with the Board within twenty days after service of the notice of hearings, and at the same time shall serve a copy of the answer on the charging party.

12.06.1 Bill of Particulars

In the event a respondent files with the Board a motion for a bill of particulars addressed to the charge, the time for filing an answer to the charge shall be extended by order of the Board, but not more than ten days following the denial of the motion, or ten days following receipt of a charge amended in response to the granting of such motion.

12.06.2 Answer by Respondent

The respondent shall specifically admit, deny or explain each of the allegations in the charge, unless the respondent is without knowledge, in which case the respondent shall so state, and such statement shall operate as a denial. The answer shall include a specific detailed statement of any affirmative defense.

12.07 Amendment to a Complaint

A party may amend a complaint or an answer at any time prior to the making of a final determination by the Board by making application to and receiving approval for the amendment from the Board or the hearing officer upon such terms and conditions as the Board or hearing officer may fix. The answer may be amended even if the complaint is not amended, provided, however, the respondent shall have an absolute right to amend the answer if amendment of the complaint is allowed.

12.07.1 Charge Withdrawn

The charge may be withdrawn upon motion of the charging party before the issuance of a final order based thereon only upon approval by the Board or the hearing officer authorized by the Board to conduct the hearing.

12.08 Rights of Parties at Hearings

Any party to the hearing, as determined by the Board, shall have the right to be represented by counsel or by other representative, to examine and cross-examine witnesses, to offer documentary and other evidence. Stipulations may be offered with respect to any issue. Parties may request the issuance of subpoenas. Rules of evidence shall not apply, but the burden of proof shall rest with the claimant. The Board or hearing officer shall allow oral argument with the appropriate limitations, and after consultation with the parties, may permit or require written briefs to be submitted, in which case the parties shall be granted adequate time for filing same.

12.08.1 Transcript of Hearing

The Board may provide for the official transcript of the proceeding and provide a copy to the hearing officer. The parties may make their own arrangements with the official reporter for copies of such transcript or they may examine a copy at the office of the Board during normal working hours.

12.09 Report of the Hearing

Within thirty days following the close of a hearing, the Board or the hearing officer shall prepare a report containing proposed findings of fact, proposed conclusions and a proposed final order and the reasons therefore. The Board shall serve a copy of the report on all parties.

12.09.1 Exceptions to Report

Within fourteen days after service of a report by the Board or a hearing officer, a party may file with the Board a statement in writing setting forth exceptions thereto. At the same time a copy of the statement shall be served on each party to the proceedings and proof of such service submitted to the Board. A supporting memorandum may accompany the statement of exceptions. The exceptions shall:

- a. set forth specifically the question of fact, law or policy to which exceptions are taken;
- b. identify that part of the report to which exception is made;
- c. designate by citation of page the portions of the record relied on if a transcript has been made;
- d. state the grounds for the exceptions and include citation of authorities, if any. An exception to a recommended finding, conclusion or order which is not specifically made is waived. An exception which fails to comply with this rule may be disregarded.

Matters not raised in the exceptions may not be argued before the Board or in any further proceedings. Any brief in support of exceptions shall contain no matter not included within the scope of the exceptions.

12.09.2 Answer to Exceptions

Within ten days from the last date on which exceptions and any supporting brief may be filed, a party opposing the exceptions may file an answering brief to the exceptions. The answering brief to the exception shall be limited to the questions raised in the exceptions and in the brief in support thereof.

12.10 Final Action on Report

Upon conclusion of a hearing conducted by the Board or hearing officer pursuant to these rules, and only after consideration by the Board of the hearing officer's report and any timely exceptions and supporting memoranda thereto filed pursuant to these rules, and after consideration of any motion and accompanying affidavits that the hearing officer be disqualified and which motion the Board or hearing officer overruled, the Board shall act either to adopt, modify or reverse the proposed report, or any part thereof, filed by the Board or hearing officer.

12.11 Final Order

Upon final action by the Board on the report, the Board shall, within thirty days and based upon findings of fact and conclusions of law, render a decision and appropriate written order dismissing or sustaining the charge in whole or in part. Where appropriate, the Board may direct the respondent to take such corrective action as the Board deems appropriate, or order such other action as the Board deems necessary to effectuate the

policies of the ordinance, including but not limited to, the issuance of a cease and desist order. The Board shall not order attorney's fees to be paid in any proceeding.

12.12 Remedial Action Ordered

If remedial action is ordered, the respondent shall advise the Board when the required remedial action has been effected.

12.13 Waiver of Time Requirements

Either the Board or the hearing officer, as the case may be, may act to modify or waive any of the specific time requirements set forth in Rule 12 upon showing of good cause, except that the hearing officer shall not be empowered to extend the time of filing the report.

12.14 Unavailability of Hearing Officer

In the event the hearing officer designated by the Board becomes unavailable the Board may appoint another hearing officer to continue the hearing or issuance of a report and recommendation on the record as made, or both.

RULE 13 – INTERNAL CONDUCT OF EMPLOYEE ORGANIZATIONS

13.01 Political Contributions by Employee Organizations

A certified employee organization shall not make any direct or indirect contribution out of funds of the employee organization to any organization or political party who supports a candidate, or to an individual who is a candidate for a local municipal elective public office. Nothing in this section shall be construed to prohibit voluntary contributions by individual to political parties, organizations or candidates.

13.02 Utilization of Bulletin Boards

Recognized employee organizations at all times, and petitioning and intervening employee organizations during periods when the processing or representation petitions or other actions allowed by these rules is timely, may place informational material on agency or department bulletin boards subject to the following conditions:

1. the employee organization must be readily identified in the material;
2. the contents of the material posted must relate to the activities of the employee organization and cannot relate to local municipal elections or be defamatory in nature;
3. employee organizations shall assume all costs incidental to the preparation, production, reproduction and/or distribution of material;
4. a copy of all material which is to be posted shall be filed with the City Clerk prior to or at the time of the posting;
5. Material posted which is not in conformance with these rules shall be immediately removed when ordered by the City Manager or designee; and
6. The total space occupied by all employee organization material on any bulletin board may not exceed twenty-five percent of that board. Each employee organization utilizing a department bulletin board is entitled to equal space.