

ADDITIONAL ATTACHMENTS FOR

**Item # 1: Administrative Appeal of City Manager Decision**

**Upholding Fire Inspection Fees Invoiced to Peter Nelson for Years**

**2004, 2005, and 2006**



Procedural History Index and Documents



Written Submissions of Party Positions and  
Supporting Documents

AVAILABLE AT THE CITY CLERK'S OFFICE

## **Index of attachments for Administrative Appeal Upholding Fire Inspection Fees Invoiced to Peter Nelson**

1. Rules for City Council Consideration of an Appeal of City Fees
2. Procedural History Index and Documents
3. Written Submissions of Party Positions and Supporting Documentation

## **RULES FOR CITY COUNCIL CONSIDERATION OF ADMINISTRATIVE APPEALS OF CITY MANAGER DECISIONS ON CITY FEES**

1. The appellant Peter Nelson has already submitted an appeal letter to the City Clerk, dated February 17, 2006. City staff may submit a written response to that letter.
2. In addition to that appeal letter and any City staff response, both parties may submit a written submission to the City Clerk outlining arguments in support of their position.
3. **All written submissions must be delivered to the City Clerk at least seven (7) calendar days prior to the City Council meeting in which the appeal will be considered.**
4. Both sides shall be limited to a maximum of four (4) pages of substantive argument for each submission. However, both sides may attach additional documents, reports, or other evidence as exhibits to their four-page argument section as they deem appropriate.
5. The Mayor may refuse to allow the presentation of written arguments, documents, reports, exhibits or other materials that are not submitted on time or do not follow these rules.
6. Any party submitting materials to the City Clerk for the administrative appeal shall simultaneously provide a copy of said materials to the opposing party.
7. Under Milpitas Municipal Code Section IV-3-7.00, the City Council shall decide whether or not a hearing on an administrative appeal on city fees or charges is necessary. If the City Council decides to hold a hearing, such hearing shall be open and public and subject to the following procedural rules:
  - a. The City Council shall act as the hearing body, with the Mayor acting as the chief hearing officer. The Mayor shall ensure compliance with these hearing rules and the maintenance of decorum with the assistance of the City Attorney and City staff.
  - b. The City Council shall have the authority to answer all questions raised on appeal and to make new findings of fact and determinations of law.
  - c. At the hearing, each side shall be given a total of ten (10) minutes to present their oral arguments. During that allotted time, a party may present witnesses or documentary or photographic evidence, provided that the party has met the seven (7) day submission and notice rules. No cross-examination of the witnesses by the parties shall be allowed.

- d. The Mayor may extend the time allotments herein set forth in equal measures to both sides as he or she deems appropriate for purposes of fairness or to answer questions from Council members.
  - e. The parties shall not be bound by any of the technical rules of evidence or admissibility used in courtroom proceedings. The Mayor may conduct the hearing in the manner most conducive to determinations of the truth and shall use his or her own discretion and common sense in the determination of the admissibility of evidence. Upon request, the Assistant City Attorney shall provide advice and counsel on such matters.
  - f. The names of any witnesses that may testify at a hearing must be submitted to the City Clerk and the opposing party at least seven (7) calendar days prior to the City Council meeting in which the appeal will be considered. The Mayor may refuse to allow the presentation of witnesses that were not timely identified and announced.
8. As finders of fact, the City Council shall be the judge of the relevancy and materiality of any evidence and testimony offered. Such judgments shall be guided by common sense. Conformity with the legal rules of evidence shall not be required.
9. The burden of proof is on the appellant.
10. All decisions of the City Council are final and shall be made in writing to the appellant.