

RESOLUTION 79-73
OF THE COUNCIL OF THE CITY OF FORT COLLINS
ADOPTING HEARING RULES FOR THE FIREMEN'S
PENSION BOARD

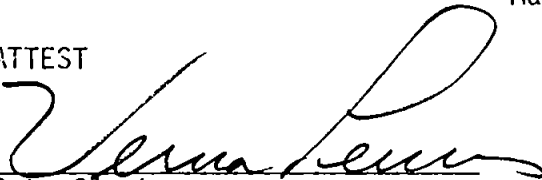
Be it resolved that those certain rules attached hereto as Exhibit "A" and pertaining to the conduct of hearings before the Firemen's Pension Board be, and they hereby are, approved

Passed and adopted at a regular meeting of the City Council held this 7th day of August, A D 1979



Mayor

ATTEST



City Clerk

EXHIBIT "A"

FIREMEN'S PENSION BOARD HEARING RULES

1 Application These rules apply to all proceedings before the Firemen's Pension Board in which an applicant is entitled to a hearing

2 Notice of Hearing Every applicant or claimant shall be given written notice of the time, place, and purpose of a hearing, the legal authority and jurisdiction under which it is held, and the matters of fact and law asserted. The notice shall be served personally or by first class mail to the last address known by the City for the applicant or claimant at least twenty (20) days prior to the hearing

3 Hearing to be Recorded The presiding officer shall cause the proceedings to be recorded by a reporter or by an electronic recording device. When required, the presiding officer shall order that the proceedings, or any portion thereof be transcribed with costs to be assessed against the party seeking the transcript. If the Board requires a transcript, it shall make its copy available for inspection to any other party

4 Pleadings There are no prescribed formats for material to be considered by the Board. However, it should be borne in mind that the applicant or claimant bears the burden of proof and that written reports are often more persuasive than oral testimony

5 Rules of Evidence While formal rules of evidence do not apply to hearings before the Board, an applicant or claimant should take care to be sure evidence offered is material to the issue at hand, is reasonably trustworthy, and tends to prove that for which it is offered. Medical records, for example, should on their face disclose their source and should not be edited or otherwise modified unless other arrangements are made in advance with attorneys for the Board

6 Oral Testimony All oral testimony, including that of the claimant or applicant, shall be under oath. To the extent possible, the City will assist an applicant or claimant in compelling the attendance of witnesses to testify on his behalf

7 Department of Employee Development to Assist Applicants The Department of Employee Development, when requested, shall assist any claimant or applicant in the preparation of his case before the Board. The Director of Employee Development and the City Attorney shall agree upon an acceptable application form for disability and longevity pension applications and the Department of Employee Development shall assist an applicant in filling out such form. Upon receipt of a completed application, the Department of Employee Development, after consultation with the Board Chairman, shall schedule a formal hearing in no less than twenty (20) and no more than forty-five (45) days for the consideration of the application

8 Pre-hearing Conference At least two weeks prior to any hearing to be held pursuant to these rules, the applicant or applicant's representative shall participate in a pre-hearing conference with the City Attorney for the purpose of agreeing upon exhibits, scheduling medical testimony, and stipulating to as many facts as possible which need not be proven at the hearing. Under proper circumstances, the Chairman of the Board may waive the pre-hearing conference.

9 Compulsory Medical Examination In disability retirement applications, a claimant will normally be required to submit to a medical examination by a physician or other specialist selected by the City Attorney. This should not be interpreted as indicating the applicant need not be prepared to prove the nature and extent of any medical disability. An applicant may choose to rely upon medical reports obtained by the City or he may present his own medical testimony, or both.

10 Duties of Presiding Officers The presiding officer shall regulate the course of the hearing, set the time and place for continued hearings, fix the time for the filing of briefs and other documents, direct the parties to appear and confer to consider the simplification of issues, admissions of fact and limitations of the number of expert witnesses, and do anything else necessary and proper to the conduct of the hearing, including the issuance of subpoenas and ruling upon offers of proof and the receipt of evidence.

11 Burden of Proof The proponent of an order shall have the burden of proof, and every party shall have the right to present his case by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The person conducting the hearing shall give effect to the rules of privilege recognized by law.

12 Decision Within fourteen (14) days of the close of any hearing, the Board shall render its written opinion considering the issues raised by the hearing. The opinion shall set forth findings of fact and conclusions of law and shall specify the vote of the Board members if not unanimous. The determination of the Pension Board shall be final.