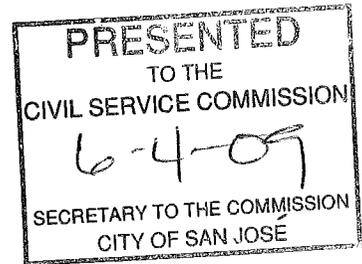




# CITY OF SAN JOSE, CALIFORNIA

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## CIVIL SERVICE COMMISSION

Bill Brill, Chair  
Jon Fitch, Vice Chair  
Dave Busse  
Peter Soulé  
Emily Côté

## CIVIL SERVICE COMMISSION Minutes of the Commission April 20, 2009

The Civil Service Commission of the City of San José convened on April 20, 2009, in Room W242, San José City Hall, at 6:30 p.m.

PRESENT: Commissioner Brill, Busse, Fitch, Soulé and Côté  
ABSENT: None

Presiding Officer Côté stated this meeting had been called to order to hear the appeal of dismissal of Nancy Hoke, Parking and Traffic Control Officer. It was determined that the appellant, the appellant's representative, Bill Pope, Senior Deputy City Attorney Brian Hopper, representing the respondent, City of San José, and Allison Suggs, representing the Office of Employee Relations, were present and all parties were ready to proceed.

Presiding Officer Côté read the following preliminary motions in limine into the record:

Mr. Bill Pope, representing the appellant Nancy Hoke, and Brian Hopper, representing the City of San Jose conferred with Hearing Officer Emily Côté in prehearing conference calls where the following matters were raised, arguments were heard and the following in limine motions were decided.

As a preliminary matter, appellant requested a subpoena duces tecum requesting production of a number documents by March 23, 2009. The City of San José objected to this subpoena on the grounds that it requested production of the documents well in advance of the hearing which is scheduled for April 20, 2009.

The City's objection is sustained.

The enumerated rights of an employee challenging a disciplinary decision before the Civil Service Commission are aimed at ensuring fair consideration at the hearing and there is no indication of intent to provide a right to discovery along the lines of that allowed at trial. The crux of the matter before the Commission is whether the discipline imposed is warranted in this particular matter based on the facts as evidenced by the documents and witnesses presented. It was agreed that the available documents responsive to this subpoena would be produced at the hearing and redacted to protect the privacy of third parties.

As to the following motions in limine from the City the decisions are as follows:

- Motion to exclude witnesses prior to testimony is granted.
- Motion to exclude evidence of what discipline other employees have received for non-identical misconduct is granted. Only evidence of equivalent situations may be introduced. Non-identical situations are not relevant to this matter before the Commission.
- Motion to exclude evidence or argument about choice of Skelly Officer is granted. The pre-disciplinary process is not relevant to the Commission's charge in this disciplinary appeal hearing.
- Motion to exclude evidence related to confidential Peace Officer reference is granted.

Opening statements were made by Mr. Hopper and Mr. Pope.

Testimony was heard from Transportation Department Parking and Traffic Control Officer Jeremy Moss with his representative attorney Jacklyn Bentley present. Mr. Pope declined to cross-examine the witness. Presiding Officer Côté denied Mr. Pope's request to recall the witness for cross-examination at the April 29, 2009 hearing.

Testimony was heard from Transportation Department Parking and Traffic Control Officer Valerie Flores with her representative attorney Jacklyn Bentley present, Office of Employee Relations Executive Analyst Allison Suggs.

At 8:11 p.m., the Commission recessed and reconvened at 8:23 p.m. with Commissioners Brill, Busse, Fitch, Soulé, and Côté present.

Testimony was heard from Transportation Director Jim Helmer and Office of Employee Relations Director Alex Gurza.

The parties stipulated that the City's copy of the Appellant's exhibits (copy of Ms. Hoke's performance appraisal) are the correct copies.

City's Exhibits No. #1 through #6, and City's Exhibit No. #14 were entered into evidence.

At 9:39 p.m. the Commission adjourned to April 29, 2009 at 6:30 p.m. to continue to hear the appeal of dismissal of Nancy Hoke, Parking and Traffic Control Officer.



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EMILY J. CÔTÉ, PRESIDING OFFICER

ATTEST:

CIVIL SERVICE COMMISSION  
LEE PRICE, SECRETARY



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Michelle Radcliffe, Deputy Secretary