

82306-5

No. 60868-1-I

COURT OF APPEALS, DIVISION I

STATE OF WASHINGTON

ROGER L. SKINNER

Appellant

v.

CITY OF MEDINA and CIVIL SERVICE COMM'N
OF THE CITY OF MEDINA

Respondents

FILED
COURT OF APPEALS DIV. #1
STATE OF WASHINGTON
2008 FEB 28 PM 3:06

BRIEF OF APPELLANT

William J. Murphy
WSBA No. 19002
Attorney for Appellant

Law Office of William J. Murphy
P.O. Box 4781
Rollingbay, WA 98061
(206) 842-4810 (phone)
(206) 238-6905 (fax)

TABLE OF CONTENTS

A. ASSIGNMENTS OF ERROR 1
 Assignments of Error 1
 Issues Pertaining to Assignments of Error 1

B. STATEMENT OF THE CASE 2

C. SUMMARY OF ARGUMENT 4

D. ARGUMENT 4

**1. SKINNER’S APPEAL TO THE SUPERIOR COURT WAS
 TIMELY FILED** 5

 a. Skinner’s Appeal to the Superior Court Was Timely Filed
 in Accordance With the Administrative Procedures Act
 (APA), RCW 34.05.470 6

 b. The Tolling of the Appeal Period by a Motion for
 Reconsideration is Also Supported by Case Law 8

 c. The Tolling of the Period to File an Appeal by A Motion
 for Reconsideration Promotes the Efficient and Effective
 Administration of Justice 9

 d. The City Argues, in Part, That The City of Medina and Its
 Civil Service Commission Had No Authority To Consider a
 Motion for Reconsideration And Therefore The Motion for
 Reconsideration Could Not Toll The Appeal Period ... 11

**2. SKINNER’S MANNER OF SERVICE WAS IN
 ACCORDANCE WITH PUBLISHED RULES AND
 EFFECTIVE** 12

E. CONCLUSION 14

**EXHIBIT A – COPIES OF CITED RULES OF THE CITY OF
MEDINA CIVIL SERVICE COMM’N (2.13, 3.01 AND 18.15); THE
RULES IN THEIR ENTIRETY ARE AT CP 117 TO 166.**

TABLE OF AUTHORITIES

CASES

Christenson v. McDuffy, 93 Wn. App. 177, 179-80, 968 P.2d 18 (1998). .5

Curtis Lumber Co. v. Sortor, 83 Wn.2d 764 (1974). 8

Hall v. Seattle School District, 66 Wn.App. 308, 831 P.2d 1128 (1992) .
..... 8,9,14

McConiga v. Riches, 40 Wn. App. 532, 536, 700 P.2d 331 (1985). 5

Reynolds v. Hicks, 134 Wn.2d 491, 495, 951 P.2d 761 (1998) 4

In re Saltis, 94 Wn.2d 889, 621 P.2d 716 (1980) 14

STATUTES

RCW 34.05.010 7

RCW 34.05.030(5) 7

RCW 34.05.470 6, 8

RCW 42.41 6

RCW 42.41.040(5) 7

OTHER AUTHORITIES

CITY OF MEDINA CIVIL SERVICE RULES

Rule 2.13. 13

Rule 3.01 13

Rule 18.15 12

A. ASSIGNMENT OF ERROR

The trial court erred in deciding that a motion for reconsideration did not toll the period for appeal from an original decision; and in deciding that appellant could not rely on a Civil Service Commission's published rules which appeared to be valid on their face.

ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Does a timely filed Motion for Reconsideration, authorized by published rules, toll the time by which the appellant must file an appeal of the original decision?
2. Can Appellant rely on rules published by the City of Medina and its Civil Service Commission regarding the means of service of process upon that Civil Service Commission?

B. STATEMENT OF THE CASE

Appellant Roger Skinner served the City of Medina as a respected member of its police department for over 15 years, rising to the rank of lieutenant. After serving the City and its citizens faithfully for over a decade and a half, during which time Roger Skinner consistently received “exceeds standards” in performance appraisals, he was abruptly terminated by City of Medina Police Chief Jeffrey Chen on February 15, 2006. Skinner believes the termination was based, in part, in retaliation for Skinner’s disclosure of improper remarks made by the Chief of Police. CP 102-103.

The City’s Civil Service Commission entered a decision upholding that termination on September 1, 2006. CP 4-13. Appellant Skinner timely filed a Motion for Reconsideration, which motion was considered by the Civil Service Commission. On September 18, 2006 the Civil Service Commission entered its order denying Skinner’s Motion for Reconsideration. CP 17-18. Skinner filed his appeal to the King County Superior Court on October 17, 2006 (CP 1-18), within the 30 days after the date of the Commission’s order denying reconsideration and served his Notice on the City of Medina (CP 50), the City’s Civil Service Commission (CP 51) and the Medina Police Department (CP 52).

Respondent City of Medina first argued to have Skinner's Superior Court appeal dismissed for lack of jurisdiction before King County Superior Court Judge Lum on November 29, 2006. The civil Service Commission joined in this motion. After hearing arguments from all parties, including the same arguments presented to this court by Respondents, and then taking this matter under advisement, Judge Lum denied the City's Motion to Dismiss on December 1, 2006. CP 229.

The parties then proceeded to prepare their cases for a hearing on the merits. The City of Medina and its Civil Service Commission prepared and filed a transcript of proceedings for review. CP 202-3, 205. Appellant Skinner prepared his trial/appeal brief with King County Superior Court, relying on the transcript provided. Skinner's trial brief was filed with King County Superior Court on July 17, 2007. CP102 – 115.

Thereafter, on August 15, 2007, King County Superior Court Judge Lau decided, without oral argument, to grant a summary judgment motion for dismissal in contradiction to local rule requirements and despite the Skinner's request for oral argument. Due to the irregularities in this proceeding, two days later, on August 17, 2007, Judge Lau agreed to vacate that order and to recuse herself from further proceedings in the

case. Judge Lau entered orders vacating her decision and recusing herself. CP 246.

Respondents then re-filed their summary judgment motion for dismissal which motion was heard by Superior Court Judge McBroom on November 2, 2007. At the conclusion of the argument, Judge McBroom entered a decision dismissing the appeal without taking the matter under advisement. CP 257-259.

C. SUMMARY OF ARGUMENT

Appellant Skinner filed his Notice of Appeal with King County Superior Court within 30 days after receiving the Commission's written decision on reconsideration. His filing was therefore timely. Further, he filed his Notice in accordance with the written and published rules of the City of Medina and therefore established the jurisdiction of the Superior Court to hear his appeal. Skinner requests that the trial court's order of dismissal be vacated and this matter remanded for proceedings on the merits.

D. ARGUMENT

An order by the trial court, granting summary judgment, is reviewed *de novo* by the appellate court, which engages in the same inquiry as the trial court. *Reynolds v. Hicks*, 134 Wn.2d 491, 495, 951 P.2d

761 (1998). In reviewing a summary judgment decision, the appellate court draws all reasonable inferences from the facts in the light most favorable to the nonmoving party, in this case Appellant Skinner. *McConiga v. Riches*, 40 Wn. App. 532, 536, 700 P.2d 331 (1985). In construing a statute, a question of law, the appellate court engages in de novo review, construing statutes according to plain language to effectuate the intent of the legislature. *Christenson v. McDuffy*, 93 Wn. App. 177, 179-80, 968 P.2d 18 (1998).

**1. SKINNER’S APPEAL TO THE SUPERIOR COURT WAS
TIMELY FILED**

The City of Medina and its Civil Service Commission argue that Skinner’s appeal to King County Superior Court was not timely because Skinner’s Motion for Reconsideration did not toll the period for the filing of his appeal. This argument is contrary to statutory law, applicable case law, and the efficient administration of justice in the civil courts of this state.

/ / /

/ / /

/ / /

a. Skinner's Appeal to the Superior Court Was Timely Filed in Accordance With the Administrative Procedures Act (APA), RCW 34.05.470

Chapter 34 (Administrative Law) Section 05.470 (Reconsideration)

provides, in pertinent part:

(1) Within ten days of the service of a final order, any party may file a petition for reconsideration, stating the specific grounds upon which relief is requested. The place of filing and other procedures, if any, shall be specified by agency rule.

(2) No petition for reconsideration may stay the effectiveness of an order.

(3) If a petition for reconsideration is timely filed, and the petitioner has complied with the agency's procedural rules for reconsideration, if any, the time for filing a petition for judicial review does not commence until the agency disposes of the petition for reconsideration. The agency is deemed to have denied the petition for reconsideration if, within twenty days from the date the petition is filed, the agency does not either: (a) Dispose of the petition; or (b) serve the parties with a written notice specifying the date by which it will act on the petition. . .

RCW 34.05.470 (enacted 1989) (emphasis added).

The City argues that the Administrative Procedure Act does not apply to the City of Medina Civil Service Commission. This City is incorrect, as shown by the analysis below.

RCW 34.05.010 defines “Agency” for purposes of the Administrative Procedures Act to include “any local governmental entity that may request the appointment of an administrative law judge under chapter 42.41 RCW.” Thus, a local governmental entity, such as the City of Medina’s Civil Service Commission, is an Agency under the Act, if it may request the appointment of an ALJ. It is important to note, for purposes of defining Agency under the APA, that there is not a requirement that the entity actually request an ALJ, only that it may, i.e., is permitted, to do so under RCW 42.41.

RCW 42.41.040(5) provides that a local government shall apply for a hearing before an ALJ when facing a complaint from a governmental employee of retaliatory action. Pursuant to RCW 42.41, the City of Medina and its Civil Service Commission may request the appointment of an ALJ and therefore the City of Medina and its Civil Service Commission fall squarely within the definition of Agency under the APA.

The APA, at RCW 34.05.030(5), states “All other agencies, whether or not formerly specifically excluded from the provisions of all or any part of the Administrative Procedure Act, shall be subject to the entire act.” The City of Medina and its Civil Service Commission are not specifically excluded from the Act. The entire act, including the provision

regarding the tolling effect of Motions for Reconsideration, is applicable to the City of Medina and its Civil Service Commission.

Skinner filed his appeal to the King County Superior Court within 30 days of the Commission's decision on Reconsideration and therefore his appeal was timely filed, in accordance with RCW 34.05.470.

b. The Tolling of the Appeal Period by a Motion for Reconsideration is Also Supported By Case Law

In *Hall v. Seattle School District*, 66 Wn.App. 308, 831 P.2d 1128 (Div. 1, 1992) this court held that substantial compliance with statutes that prescribe methods of service is sufficient. In *Hall*, the court cited an earlier case:

[T]he basic purpose of the new rules of civil procedure is to eliminate or at least minimize technical miscarriages of justice inherent in archaic procedural concepts once characterized by Vanderbilt as “the sporting theory of justice.”

Hall at 308 citing *Curtis Lumber Co. v. Sortor*, 83 Wn.2d 764 (1974).

The *Hall* court went on to consider whether the time for appeal runs from the date of the initial decision or from the date on the ruling for reconsideration. The court held that the filing of a Petition for Writ of Review filed within 30 days of an order on a motion for reconsideration was timely filed. *Hall* at 317. In its decision the court noted the

consistency of this rule with the Federal Rules of Appellate Procedure, RAP 5.2(3), and the Administrative Procedure Act at RCW 34.05.070.

This Court also stated (emphasis added):

Contrary to Hall's contention, there is no firmly established common law that a motion for reconsideration does not toll the time for appeal from the original decision.

Id.

Skinner awaited receipt of the decision on reconsideration before engaging an attorney to commence an appeal on his behalf. Once that decision was received, Skinner timely filed his appeal within 30 days. Like the facts presented to this Court in Hall, such actions were consistent with the rule well established by the Federal Rules of Appellate Procedure, the corresponding State rule at RAP 5.2(3) and the Administrative Procedures Act.

c. The Tolling of the Period to File an Appeal by A Motion for Reconsideration Promotes the Efficient and Effective Administration of Justice

Consider the situation that would arise if Motions for Reconsideration did not toll the period for filing an appeal.

Because the date of a pending decision on a motion for reconsideration would be unknown, counsel for the aggrieved party would be in the untenable position of preparing and then holding a notice of appeal as the clock ticked and then having to file it precisely on the 30th

day after an original decision, even if the Motion for Reconsideration was thereafter granted in favor of the aggrieved party.

Alternatively, counsel could file an appeal prior to a reconsideration decision and before the 30th day. In such case, Counsel would be required to affirmatively represent to the appellate body that the decision in the case was final and improper, when, in fact the decision on the Motion for Reconsideration might address the very issue that was brought up on appeal.

Furthermore, not tolling the appeal period would require appellants to pay the not insignificant and unrefundable filing fee required of all appeals even when such an appeal was unnecessary.

Finally, the appellate court (whether that is the Superior Court or the Court of Appeals) would be faced with numerous appellate filings that were unnecessary and which would be dismissed shortly after initial processing (needlessly adding to the administrative burden of the courts), as decisions were rendered on reconsideration.

It simply makes no sense, from the perspective of the administration of justice, to ignore Motions for Reconsideration for purposes of tolling the appeal period, particularly when the tolling is of such short duration as to have minimal impact on respondents to appeals.

d. The City Argues, in Part, That The City of Medina and Its Civil Service Commission Had No Authority To Consider a Motion for Reconsideration And Therefore The Motion for Reconsideration Could Not Toll The Appeal Period

In its motion for dismissal , the City argued that:

. . . a civil service commission being a body of limited jurisdiction when acting in a quasi judicial capacity has no inherent power, irrespective of statute, to grant a rehearing or review or annul its own order sustaining the discharge of a civil service employee.

However, the Civil Service Rules of The City of Medina expressly provide:

RECONSIDERATION. A party may move for reconsideration by the Commission only on the basis of fraud, mistake, or misconception of facts. Such motion must be filed with the Commission within ten (10) days of the decision of the Commission. Such motion for reconsideration shall be decided on affidavits, absent special showing that testimony is necessary.

The City of Medina Civil Service Rule 18.31.

Despite its current argument, the City:

1. published this rule allowing Skinner to file a Motion for Reconsideration;
2. accepted his motion on reconsideration and thereafter proceeded to take the motion under advisement; and
3. thereafter rendered a decision on reconsideration.

Although the City argued that the Civil Service Commission had no authority to “grant a rehearing or review or annul its own order” (citing *State v. Brown*, 126 Wash. 175, a case decided in 1923, some 66 years prior to the enactment of the Administrative Procedures Act and 71 years prior to adoption of the City of Medina Civil Service Rules), it is improper for the City to engage Skinner in this process and thereafter disavow its authority in an attempt to preclude an appeal on the merits by Skinner.

2. SKINNER’S MANNER OF SERVICE WAS IN ACCORDANCE WITH PUBLISHED RULES AND EFFECTIVE

Skinner timely served his appeal upon the City and the Civil Service Commission at 501 Evergreen Point Rd. in Medina, WA by service upon the City Clerk. The Civil Service Rules of the City of Medina, officially adopted by the City of Medina on November 22, 1994, provide, in pertinent part:

SERVICE OF PROCESS-PAPERS:

. . . .

4. Papers required to be filed with the Commission shall be deemed filed upon actual receipt of the papers by the Commission staff at the Commission office

City of Medina Civil Service Rules 18.15.

The Civil Service Rules of The City of Medina further provide that “the office address of the Civil Service Commission is 501 Evergreen Point Rd., Medina, WA 98039” Rule 2.13. The address thus provided for the office of the Medina Civil Service Commission is the address of Medina City Hall. The Rules also provide “The City Manager of the City of Medina, or his/her designee, shall be the Secretary and Chief

While, theoretically, a Civil Service Commission may be independent from a City, in this case the two entities in Medina are inextricably intertwined. The Commission’s own published rules co-locate its office with that of the City of Medina. Rule 2.13. Furthermore, the Commission adopted a rule that the Medina City Manager (an employee of the City of Medina) is the Commission’s Secretary and Chief Examiner. Rule 3.01. The Commission also adopted a rule that Service of Process and filing of papers were effective when received by Commission staff. Rule 18.15. Commission staff is, to the best of anyone’s reading of the Commission’s rules, the staff of the City Manager (i.e., city administrative employees). It seems disingenuous, at best, for the Commission to argue that service on the City Clerk did not provide actual notice to the Commission. In fact, both the City and the Civil Service Commission quickly responded to the filing indicating that both had actual notice of the proceedings.

The effectiveness of Skinner's filing of his Notice of Appeal is consistent with the holding in *Hall*, and the court's holding in *In re Saltis*, 94 Wn.2d 889, 621 P.2d 716 (1980), that the test for legal sufficiency of service is whether the notice was reasonably calculated to reach the intended parties. *Id.* at 898.

E. CONCLUSION

Skinner properly and timely filed his Notice of Appeal and respectfully requests that this court reverse the trial court's summary judgment decision and remand this case back to King County Superior Court for further proceedings on the merits.

February 28, 2008

Respectfully submitted,



William J. Murphy
WSBA No. 19002
Attorney for Appellant

EXHIBIT A

PERTINENT EXCERPTS OF CITY OF MEDINA
CIVIL SERVICE COMMISSION RULES

I. GENERAL PROVISIONS

- 1.01 **AUTHORITY AND APPLICATION.** These rules are promulgated pursuant to the authority granted by Chapter 41.12 RCW, Civil Service for City Police. These rules are applicable to proceedings before the Civil Service Commission and should be read in conjunction with the specific provisions of RCW 41.12.
- 1.03 **SCOPE AND PURPOSE.** These rules govern the continuing administration of the Civil Service System of the City of Medina. The purpose of these rules is to assure that the Civil Service System in the City of Medina is administered in accordance with the ordinances of the City of Medina and that all proceedings before the Commission are conducted in an orderly, fair and timely manner
- 1.05 **PRESUMPTION OF VALIDITY.** The Civil Service System implemented by these rules substantially accomplishes the purpose of RCW 41.12. These rules are presumed to be valid and shall be upheld unless in direct conflict with RCW 41.12.
- 1.07 **SEVERABILITY.** If any provision of these rules or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these rules which can be in effect without the invalid provision or applications, and to this end, any section or word is declared to be severable.

by the party unless, in the exercise of reasonable diligence, a basis for challenge is unknown to a party prior to commencement of a hearing.

- 2.11 **COMMISSIONERS—CHALLENGE-NECESSITY.** If, as a result of disqualification(s) pursuant to Rule 2.07, there is no longer a lawfully constituted quorum available, the Mayor shall appoint a Commissioner pro tem to the Commission.
- 2.13 **OFFICE—HOURS.** The office address of the Civil Service Commission is 501 Evergreen Point Rd. (P.O. Box 144), Medina, WA 98039. The regular hours of the Commission Secretary shall be 8:30 AM to 5:00 PM.
- 2.15 **PUBLIC RECORDS.** Public records of the Commission shall be available for inspection and copying during the regular office hours of the City of Medina. No fee will be charged for inspection of public records. Inspection will be during office hours in a space provided by the Commission staff, and under its supervision, and must be accomplished without excessive interference with the essential functions of the Commission. Copies will be made available at actual cost or as provided by ordinance. These rules shall be printed for free public distribution.
- 2.17 **RECORDS OF PROCEEDINGS.** The Commission shall keep a record of its proceedings. The record of the Commission shall not include a written verbatim report of proceedings unless ordered. The Commission may retain a court reporter to record all or part of a proceeding. In addition, a party to a proceeding, at his/her own expense, may have a court reporter record all or part of a proceeding. On appeal or review, costs of transcription may be recovered by the Commission. Upon appeal or review, transcription and certification of a record of proceedings shall be arranged by the Secretary and Chief Examiner.
- 2.19 **REPORTS—APPLICANTS, ELIGIBLES, EMPLOYEES.**
- a. Each applicant, eligible and employee shall keep the Commission informed, by written notice to the Secretary, of current address and telephone number, and shall report any change of name through marriage or otherwise.
 - b. Each eligible shall keep the Secretary informed, in writing, regarding availability and any refusal to accept appointment or promotion and the reasons therefore.
- 2.21 **REPORTS—DEPARTMENT HEADS.** A department head shall immediately report to the Secretary and Commission in such detail and on such forms as the Secretary may prescribe:

3. SECRETARY AND CHIEF EXAMINER

3.01 SECRETARY AND CHIEF EXAMINER—APPOINTMENT. The City Manager of the City of Medina, or his/her designee, shall be the Secretary and Chief Examiner.

3.05 SECRETARY—DISCIPLINE. The Commission shall notify the City Council and request an investigation of the Secretary concerning misconduct.

3.07 SECRETARY—AUTHORITY. In addition to acting as Secretary of the Commission, the Secretary shall:

- a. Delegate duties where necessary and supervise the preparation, conduct, and scoring of examinations, and maintenance of the classification plan;
- b. Report to the Commission from time to time as directed.
- c. Prepare the budget for the Commission, approve accounts, and administer generally the expenditure of funds appropriated for the operation of the Commission;
- d. Classify all civil service positions in the classified service, maintain a schematic list of all such classes in the classification plan, and prepare and maintain specifications for each class;
- e. Assist the Commission in determining which examinations shall be conducted, the minimum qualifications of applicants, the subjects to be covered in each examination, methods of testing, and the relative weights to be given to the various parts of the examination;
- f. Supervise the conduct of the examinations, appointing such experts, special examiners, and other persons he/she may deem necessary; decide all questions relating to the eligibility of applicants to the examinations, extension of time and all questions arising during the course of an examination; prepare and submit a report prior to and after each examination to the Commission, together with a report on all appeals from rulings or appeals from any part of the examination; and (Note: See Rule 8.01 "Ordering Examinations.").
- g. Perform all other functions necessary for the proper carrying out of these rules and the provisions of law relating to the Civil Service system and such additional duties as may be assigned to him/her from time to time by the Commission.

forth the basis of the dismissal. In the case of an action that is not final, the appeal shall be stayed until such action becomes final. Such orders may be appealed to the Commission.

- 18.11 **APPEALS—NOTICE OF HEARING.** Upon receipt of a notice of appeal, the Commission staff shall forward a copy of the notice to other affected parties. As soon as possible thereafter, but in any event within ten (10) days, a date of hearing before the Commission shall be set, with each party to be afforded not less than twenty (20) days notice of such hearing. Subsequent hearings on the same appeal shall have one week's notice unless waived by the parties. All parties may agree to waive the notice provisions and time limits provided by this section.
- 18.13 **APPEALS—AUTHORITY OF DEPARTMENT.** The exercise of jurisdiction by the Commission over a matter does not preclude the applicant from withdrawing, modifying or otherwise compromising the matter prior to the matter going to hearing. Upon resolution of a matter prior to hearing, any candidate may request the dismissal of the matter. A stipulation signed by the applicant should be submitted to the Commission prior to such dismissal.
- 18.15 **SERVICE OF PROCESS—PAPERS**
- a. The Commission staff shall cause to be served all orders, notices, and other papers issued by the Commission, together with any other papers that the Commission is required by these rules to serve. Every other paper shall be served by the party filing the notice, document or paper.
 - b. All notices, documents or papers served by either the Commission or a party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel. Service of appeals shall be by personal service, by registered or certified mail, or by regular mail with written acknowledgment of such mailing attached to the papers so served. Written acknowledgment shall be by affidavit of the person who mailed the papers, or by certificate of any attorney or Secretary and Chief Examiner.
 - c. Service upon parties shall be regarded as complete when personal service has been accomplished; or by mail (U.S. or inter-city), upon deposit in the mail properly stamped and addressed
 - d. Papers required to be filed with the Commission shall be deemed filed upon actual receipt of the papers by the Commission staff at the Commission office. All appeals except the

days in advance of the hearing, barring unusual circumstances. The party of whom the request is made shall respond no later than one (1) day prior to the hearing.

- 18.25 **DELIBERATION.** Deliberations by the Commission shall be subject to Chapter 42.30 RCW. No person other than the Secretary and Chief Examiner and legal counsel to the Commission shall be present during deliberation. No person shall attempt to convey any matter on appeal, other than in open hearing.
- 18.27 **DECISION.** In any appeal, the Commission shall issue a decision, including findings of fact, conclusions of law, and an order, to the appellant or counsel of record for the appellant. A decision shall be issued within thirty (30) days of the close of the hearing of an appeal or other proceeding heard only by the Commission. Absent the consent of an appellant to an extension of time, failure to issue a decision within the time prescribed shall result in an appeal being sustained.
- 18.29 **REMEDIES.** The Commission may issue such remedial orders as deemed appropriate.
- 18.31 **RECONSIDERATION.** A party may move for reconsideration by the Commission only on the basis of fraud, mistake, or misconception of facts. Such motion must be filed with the Commission within ten (10) days of the decision of the Commission. Such motion for reconsideration shall be decided on affidavits, absent special showing that testimony is necessary.
- 18.33 **WAIVER.** Upon stipulation of all parties to a proceeding, and upon a showing that the purposes of the rules or ordinances of the City of Medina would be better served, the Commission may waive the requirements of any of these rules.