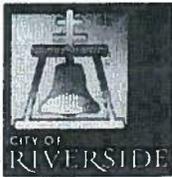


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**CODE OF ETHICS AND CONDUCT COMPLAINT
APPEAL OF HEARING PANEL DETERMINATION**

Riverside Municipal Code Chapter 2.78

City of Arts & Innovation

A Public Document

1. Person filing appeal:

Name JASON HUNTER Email jehunter51@msn.com
Address 6185 MAGNOLIA AVE #177, RIVERSIDE, CA 92506
Phone (202) 321-2630

2. Hearing Panel Determination Being Appealed:

Complainant JASON HUNTER
Officer Against Whom Complaint Was Filed DAVID AUSTIN (BOARD OF PUBLIC UTILITIES)

3. Date of Hearing: 8/3/17

4. Explain the clear error or abuse of discretion by the hearing panel:

(see attached)
please ready timestamp #2 for my presentation before
City Council

5. Signed under penalty of perjury of the laws of the State of California:

 _____
Signature

8/14/17
Date

BE ADVISED: A decision of the hearing panel finding a violation of the Prohibited Conduct section of the Code of Ethics and Conduct shall be automatically appealed to the City Council to be heard within thirty (30) calendar days. No new evidence or witnesses may be submitted or considered by the City Council on appeal.

File completed form:

Office of the City Clerk
City of Riverside
3900 Main Street
Riverside, CA 92522
951-826-5557
city_clerk@riversideca.gov

CODE OF ETHICS AND CONDUCT

RMC (Riverside Municipal Code) Section 2.78.020 establishes the purpose of the Code of Ethics and Conduct. It states, "the people of the City of Riverside expect their public officials to comply with both **the letter and the spirit of the laws...and established policies** of the City of Riverside". Further, it states, "Prohibited Conduct are actions that public officials shall **not** engage in".

RMC Section 2.78.060 sets out what, "prohibited conduct," consists of (in this complaint). **"It shall be deemed unethical for any public official to engage in one or more of the following prohibited actions: M) No public official of the City of Riverside shall violate...any established policies of the City of Riverside"**.

Violate a city policy, and one has violated the Code of Ethics and Conduct – very simple. **There are no exceptions.** The ad hoc Ethics Committee spent a year rewriting the code and one of the largest deliberate changes was to eliminate the need for complaints to prove the intent of the official. The Council adopted the updated code in April of 2016 by ordinance, which means it's a local law.

STANDING RULES OF THE BOARD OF PUBLIC UTILITIES (BPU) OF THE CITY OF RIVERSIDE

The Standing Rules of the Board of Public Utilities were amended and approved by BPU on February 27, 2016, at which time Chairman David Austin was already a long-standing member of the Board. The rules are **an established policy**. Per Section 5(B) of this policy, Chairman David Austin, "shall preside over all meetings of the RPU (Riverside Public Utilities) Board [...] and shall enforce these rules."

FIRST ETHICS VIOLATION – ALLOWING A SPEAKER TO EXCEED THREE MINUTES DURING PUBLIC COMMENT WITHOUT A VOTE OF THE FULL BOARD

Chair Austin violated this provision of the Standing Rules on May 22, 2017, when he allowed a speaker almost 4 minutes during public comment on the topic of a dark fiber leasing program. The Standing Rules clearly state in Section 7(B), **"Each person speaking shall limit his/her remarks to three (3) minutes. The RPU Board retains the right, by majority vote, to alter the time allotted for public remarks."**

The ethics panel saw video of speaker after speaker from the same meeting, including those against the program, who followed the time limits clearly delineated on BPU's speaker card. Not so this particular speaker, whom Chair Austin deemed, "important," presumably as he advocated for a position Chair Austin would eventually vote in favor of. Chair Austin made one half-hearted effort at the 3-minute mark to interrupt the speaker, before unilaterally allow him to continue to speak without interruption for another minute. ***Chair Austin even confessed to the ethics panel that he technically violated the Rules of Procedure and in doing so, violated the Ethics Code.***

The panel knew Karen Wright was arrested only a few years ago for speaking a mere 15 seconds past 3 minutes. The Council is fully aware, as am I, that NO ONE is allowed to speak past 3 minutes during public comment without being admonished by the presiding officer and the timer bell sounding continuously. It is well known to the Chair that speakers who wish to provide more information than can be conveyed in 3 minutes have the option of submitting written comments as well.

THE COUNCIL MUST OVERTURN THE DECISION OF THE ETHICS PANEL AND FIND THAT DAVID AUSTIN VIOLATED THE CODE OF ETHICS AND CONDUCT

Section 2.78.050(C) of the Riverside Municipal Code (Ethic Code), states that public officials shall, "strive to ensure that everyone is treated with respect and in a just and fair manner." Giving speakers in favor of your position more time is not fair to others, who may oppose it. Section G states that public officials shall, "strive to ensure that [they] are adequately prepared for the duties of their office." Not knowing nor enforcing your own Board's rules violates this premise.

Overturing the decisions of the ethics panel due to clear abuse of discretion in this case shows the Council believes in these aspirational goals. More importantly, due to the overwhelming evidence against Chair Austin (including a public confession), overturning the decision of the ethics panel demonstrates to your constituents that you believe in the rule of law, as violations of policy are violations of the Ethics Code under our Municipal Code per se – no exceptions.

Despite this, several ethics panel members (House and Tucker) at the hearing went rogue and stated for the record that they had no interest in enforcing the rules enacted by the City Council (which lists prohibited conduct), and would instead adjudicate this complaint based upon the conditions set forth in our old Code of Ethics and Conduct (which had aspirational goals). When officials acting in quasi-judicial roles act as tyrants - choosing their own rules instead of abiding by the ones crafted through the legislative process - they step outside the powers they were appointed to uphold and usurp the powers of our duly-elected City Council, given to them by the people of Riverside. I would suggest sanctions for these two members should they not resign effective immediately.

Section 202 of City Charter, adopted by a public vote in 2004 states, "The City of Riverside shall adopt a Code of Ethics and Conduct for elected officials and members of appointed boards, commissions, and committees to **assure public confidence in the integrity of local government and its effective and fair operation.**" A vote to uphold the decision of the ethics panel is a vote for anarchy and lawlessness, and demonstrates this process to be a sham designed to provide the illusion of legitimacy while offering none.

-Jason Hunter, 8/11/17

