



City of Arts & Innovation

Board of Ethics Memorandum

TO: BOARD OF ETHICS HEARING PANEL **DATE: FEBRUARY 2, 2023**

FROM: CITY ATTORNEY'S OFFICE **WARDS: ALL**

SUBJECT: PRE-HEARING CONFERENCE ON THE CODE OF ETHICS AND CONDUCT COMPLAINT FILED BY JENNIFER LARRATT-SMITH REGARDING CITY COUNCILMEMBER CONDER

ISSUES:

Conduct a pre-hearing conference on the Code of Ethics and Conduct complaint filed on September 12, 2022, by Jennifer Larratt-Smith regarding City Councilmember Conder.

RECOMMENDATION:

Hold a pre-hearing conference as required by Riverside Municipal Code Section 2.78.080 on the Code of Ethics and Conduct complaint filed on September 12, 2022, by Jennifer Larratt-Smith regarding City Councilmember Conder.

BACKGROUND:

The Hearing Panel conducted a pre-hearing conference on October 6, 2022, for the Code of Ethics complaint filed on September 12, 2022, by Jennifer Larratt-Smith regarding City Councilmember Conder. The Hearing Panel determined there was no evidence presented in the record of any violation of Riverside Municipal Code Section 2.78.060 (M) *Violation of federal, State, or local law prohibited* and dismissed the complaint.

On October 17, 2022, the complainant Jen Larratt-Smith filed a notice of appeal of the Board of Ethics Hearing Panel decision.

On December 13, 2022, the City Council determined that the Board of Ethics Hearing Panel committed a clear error in the dismissal of the complaint at the October 6, 2022, pre-hearing conference. The City Council found that the Hearing Panel did not follow the pre-hearing conference procedures as outlined in RMC Section 2.78.080 (E), by not allowing the complainant the opportunity to present evidence to prove the allegations in the complaint. The City Council ordered the Board of Ethics Hearing Panel to conduct a de novo hearing of the complaint.

DISCUSSION:

Riverside Municipal Code Section 2.78.080 requires the Hearing Panel to review the complaint and supporting evidence offered by the complainant to determine whether there may be a potential violation of the Code of Ethics and Conduct (Code) that should be heard at a future hearing.

More specifically, the Hearing Panel should do the following at the pre-hearing:

- Determine if the complaint complies with the following:
 - The complaint procedures have been followed.
 - The complaint is against a public official subject to the Code.
 - The complaint alleges a violation of one or more prohibited conduct sections of the Code.
 - The complaint does not restate allegations of violations that were the subject of a previous complaint.
- If the Hearing Panel determines that the complaint complies with the mandates outlined above, then the Hearing Panel shall facilitate settlement discussions between the parties.
- If settlement is not reached between the parties, then the Hearing Panel shall review the tangible evidence and determine if any evidence is irrelevant and should be deemed inadmissible.
- Following up to a ten-minute verbal presentation by the complainant, the Hearing Panel shall determine if the complainant has shown that the evidence, if taken as true, more likely than not shows that there may be a potential violation of the prohibited conduct of the Code.
- Act upon any necessary subpoenas.
- May set time limits for parties to present evidence at the hearing.
- Rule on any procedural matters raised by the complainant or public official.

FISCAL IMPACT:

There is no fiscal impact associated with this report.

Prepared by: Susan Wilson, Assistant City Attorney

Approved as to form: Phaedra A. Norton, City Attorney

Attachments:

1. Complaint by Jennifer Larratt-Smith
 - a. Part 1 – Complaint Form
 - i. 11/19/2021 email chain with Chuck Conder, a representative from the Lewis
 - ii. Group, and March JPA employees (pdf attachment)

iii. Misconceptions document written to clarify misleading statements

Councilmember Conder gave to the public on 5/18/2022 (pdf attachment).

- b. Part 2 - Documents to links of the Exhibit: Five Misconceptions
- c. Part 3 - Document to links of the Exhibit: Five Misconceptions - DDA
- d. Part 4 - Document to links of the Exhibit: Five Misconceptions - General Plan
- e. Video clips:
 - 1 Proud to stand
 - 2 Cannot vote no
 - 3 We have no authority
 - 4 Developer owns land1
 - 5 Developer owns land2
 - 6 Plow your houses
 - 7 August 18 meeting
 - 8 Against the Law
 - 9 City Attorney
- 2. RMC 2.78
- 3. Hearing Rules and Procedures