

City of Riverside Ad Hoc Ethics Committee

At the last meeting I proposed a motion for a framework for hearing ethics complaints in Riverside. The exact language of that motion should be drafted with specificity by the Asst City Attorney. In my current draft of the motion I added language to be considered for the comparable sections I proposed.

Further, you will notice I refer to the District Attorney as the selector of the Chair of the Ethics Commission. I have recently spoken to him and he has agreed to perform this function.

Also, the following is a framework from which I expect the Committee to work and will accept all friendly amendments.

The following motion is broken down into sections at the request of the Chair and committee members.

Motion (in parts):

I. A permanent Ethics Commission shall be created that will hear ethics complaints in lieu of the current system. The Commission shall not be paid and will serve in a volunteer capacity only.

II. Selection of the Commission will be as follows: the Chair shall be selected by the elected District Attorney for Riverside County and shall be a retired member of the judiciary or a lawyer licensed to practice in the state of California. The Chair shall be a resident of the City of Riverside and will no longer be eligible if that residence changes outside the City of Riverside. Should that service end the District Attorney shall expeditiously make a new selection from the existing Commission members, should one or more qualify, or from the citizenry of the City of Riverside.

The other Commission members will be selected as the current Ad Hoc Committee was selected, nominations made by the Mayor and individual City Council members and through a city-wide application process. The Mayor and Council shall interview the members and by consensus select five (5) [seven members?] members to serve. All members shall be residents of the City of Riverside and will no longer be eligible if that residence changes outside the City of Riverside. Should that service end the Mayor and City Council shall expeditiously make a new selection to fill the open positions.

III. The role of the Chair shall be to preside over all hearings, organize the committee, coordinate with City staff and ensure the rules and practices of the Committee are followed closely. The Chair shall ensure a fair result occurs and justice prevails, and that all hearings are transparent and open to the public. The Chair shall be a non voting member.

IV. The role of the remaining Commission members will be to hear ethics complaints, deliberate honestly and ensure that a fair result occurs and justice prevails. Each member, other than the Chair, shall be a voting member.

VI. The term of the Chair and Commission members shall be two years, with a term limit of no more than three terms per individual. Two (2) of the original members, other than the Chair, shall start with terms of one year, the remaining three members and the Chair shall start with two year terms to ensure continuity of the Commission in the future.

VII. For a complaint to be sustained against an individual the burden of proof shall be by clear and convincing evidence that the evidence is sufficient to sustain one or more of the charges filed. Before it can be sustained a majority [super-majority?] of the committee must vote in favor of the complaint. All votes shall be taken and recorded in public. All votes by the Commission shall be subject to appeal to the City Council.

VIII. Discovery: the subject of the complaint shall be entitled to receive the complaint filed against them, the name of the person who filed the complaint, the names of any witnesses, and any evidence submitted along with the complaint or in the possession of City staff no later than 30 days after the filing of the complaint. The duty to provide discovery shall be a continuing obligation. Failure to provide the above information shall be considered a denial of due process which may be considered by the Commission at the hearing before evidence is received.

IX. The subject of the complaint shall have the right to present evidence at the hearing, including but not limited to witnesses, documents, and other items. The subject of the complaint shall have the right to cross examine witnesses offered against them. Affidavits and or declarations from witnesses may be produced at the hearing by either side only after the signatory of the affidavit/ declaration is made available at the time of the hearing for cross examination.

X. The California Rules of Evidence shall not be strictly enforced and deviations from them should be approved by the Chair of the Committee. The Committee may consider such deviation in assessing the weight to give to such evidence.

XI. Should a complaint be sustained the Committee shall consider all options for penalty or punishment [options should be identified in another section] and recommend same to the City Council. The Chair should engage in those discussions and considerations and will formalize that recommendation to the City Council on behalf of the Commission.

XII. The Commission, after a majority of the voting members approve in writing, may request specific funds, with a budget, from the City Council for the services of an attorney or investigator not employed by the City of Riverside to assist them on a case by case basis. The Chair of the Commission shall facilitate the discussion and request, and formalize the recommendation to the City Council. Any such requests or approval of the City Council shall be made in accord with the Brown Act. All invoices provided by the attorney or investigator shall be open to public inspection upon request from any citizen of Riverside subject to the work product doctrine.

XIII. Should the City Council approve of the hiring of a lawyer or investigator for the Commission in the pursuit or investigation of an ethics complaint the subject of the complaint shall then be entitled to comparable legal or investigatory services upon request. Any such requests or approval of the City Council shall be made in accord with the Brown Act. All invoices provided by the attorney or investigator shall be open to public inspection upon request from any citizen of Riverside, subject to the attorney client privilege and work product doctrine.