



City of Arts & Innovation

# City Council Memorandum

**TO: HONORABLE MAYOR AND CITY COUNCIL**      **DATE: JUNE 13, 2017**  
**FROM: CITY CLERK**      **WARDS: ALL**  
**SUBJECT: APPEAL OF BOARD OF ETHICS HEARING PANEL DECISION - HUNTER - PERRY**

## **ISSUE:**

On May 2, 2017, Jason Hunter filed an appeal of the Board of Ethics hearing panel decision of no violation in the matter of his complaint against Councilmember Perry.

## **RECOMMENDATIONS:**

That the City Council:

1. Find that the hearing panel did not commit a clear error or an abuse of discretion based upon the record in determining that Councilmember Perry did not violate the Code of Ethics and Conduct on July 22, 2014, and adopt the decision of the hearing panel as the findings of the City Council on appeal; **or**
2. Find that the hearing panel committed a clear error or abuse of discretion based upon the record in determining that Councilmember Perry did not violate the Code of Ethics and Conduct on July 22, 2014, and refer the matter back to the Board of Ethics for a *de novo* (new) re-hearing of the matter.

## **BACKGROUND/LEGISLATIVE HISTORY:**

On April 13, 2017, the Board of Ethics hearing panel conducted a hearing for the Code of Ethics and Conduct attached complaint filed on December 27, 2016, by Jason Hunter against Councilmember Jim Perry. Following presentation of evidence by both parties and panel deliberations, the panel unanimously found no violation of the Code of Ethics and Conduct by Councilmember Perry.

On May 2, 2017, Mr. Hunter filed an appeal of the hearing panel's decision pursuant to Section 2.78.090(B) of the Riverside Municipal Code. A transcript of the hearing has been prepared and attached to this report together with the complaint and all relevant materials. RMC Section 2.78.090(E) provides that the City Council shall review the record of the hearing to determine whether the hearing panel committed a clear error or an abuse of discretion based upon the record. If no such finding is made by a majority of the City Council, then the City Council shall adopt the decision of the hearing panel as the findings of the City Council on appeal. If there is a finding by the City Council of a clear error or an abuse of discretion by the hearing panel, then that finding shall be clearly stated and the matter shall be referred back to the Board of Ethics for a *de novo* (new) re-hearing of the matter in light of the findings on appeal.

No elected official who is either the complainant, or the subject of a Code of Ethics complaint shall participate in the appeal of a decision of the hearing panel and must recuse himself or herself from participation.

**FISCAL IMPACT:**

The cost for preparation of related transcripts totaled \$3,689.15 and was absorbed within the City Clerk's Office Professional Services Account 1200000-421000. All remaining processing and duplication costs were absorbed within the City Attorney and City Clerk's Office Budgets.

Prepared by: Colleen J. Nicol, City Clerk  
Approved as to form: Gary G. Geuss, City Attorney

Attachments:

1. Appeal of Hearing Panel Determination
2. Complaint
3. Response - Perry
4. Request for continuance
5. Response to continuance
6. Ralph M. Brown Act
7. Harassment Free Workplace Policy
8. Legal Counsel Billings
9. Complaint Log
10. 10-21-2014 CC Minutes
11. 11-10-2015 Minutes and Report
12. Settlement records
13. Investigation Report
14. 8-28-2012 Agendas, Minutes, and Report
15. Signature Authority Designations
16. City Charter
17. Harassment-Discrimination Brochure and Form
18. 7-22-2014 Minutes and Report
19. 8-11-2015 Minutes and Report
20. Investigation Report by GumportMastan
21. Transcript of July 22, 2014
22. Hearing panel transcript of April 18, 2017
23. Hearing panel minutes of April 18, 2017