



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 - MAC ARTHUR

ISSUE:

On May 8, 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 Mac Arthur.

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 Mac Arthur 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 Mac Arthur 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 24, 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 Chris Mac Arthur. 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 Mac Arthur.

On May 8, 2017, Mr. Hunter filed an appeal of the hearing panel's decision pursuant to Section 2.78.090(B) of the Riverside Municipal Code. Preparation of a transcript of the hearing is underway by an outside agency and will be distributed upon receipt. The complaint and all other relevant materials are attached to this report. 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 is estimated at \$4,000 and will be absorbed within the City Clerk's Office Professional Services Account 1200000-421000. All remaining processing and duplication costs are 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 - Mac Arthur
4. Request for continuance
5. Ralph M. Brown Act
6. Harassment Free Workplace Policy
7. Legal Counsel Billings
8. Complaint Log
9. 10-21-2014 CC Minutes
10. 11-10-2015 Minutes and Report
11. Settlement records
12. Investigation Report
13. 8-28-2012 Agendas, Minutes, and Report
14. Signature Authority Designations
15. City Charter
16. Harassment-Discrimination Brochure and Form
17. 7-22-2014 Minutes and Report
18. 8-11-2015 Minutes and Report
19. Investigation Report by GumportMastan
20. Transcript of July 22, 2014
21. BOE Hearing Panel Minutes of April 24, 2017