



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL **DATE: APRIL 24, 2018**
FROM: CITY ATTORNEY'S OFFICE **WARDS: ALL**
SUBJECT: BOARD OF ETHICS RECOMMENDED REVISIONS TO RIVERSIDE MUNICIPAL CODE CHAPTER 2.78

ISSUE:

Amend Riverside Municipal Code (RMC) Chapter 2.78 to provide for a pre-hearing conference for Code of Ethics complaints.

RECOMMENDATIONS:

The Governmental Affairs Committee recommends that the City Council:

1. Amend Riverside Municipal Code Chapter 2.78 to include provisions for a pre-hearing conference; and
2. Introduce and adopt the attached ordinance.

LEGISLATIVE HISTORY/BACKGROUND:

On December 5, 2017, the City Council amended Chapter 2.78 upon the recommendation of the Governmental Affairs Committee and following the annual review of the Code of Ethics and Conduct by the Board of Ethics. At that meeting, several Councilmembers recommended that the Board of Ethics consider further revisions to the Code of Ethics and Conduct including a process to review complaints prior to a hearing on the merits.

At the January and February regular meetings of the Board of Ethics several options for a pre-hearing vetting process were discussed and considered. An *ad hoc* sub-committee was established to further explore options and bring back recommendations to the Board for consideration.

At the regular meeting of the Board of Ethics on March 1, 2018, the recommendations of the sub-committee were considered and discussed. The Board of Ethics unanimously supported amending RMC Chapter 2.78 to include a pre-hearing conference where several preliminary matters would be considered, and including a provision that the claimant must make a showing that it is more likely than not that a potential violation of the Code of Ethics and Conduct had occurred.

Minor recommended changes are found in RMC 2.78.070 G. The more substantive changes are found in RMC 2.78.080. The substance of these changes include:

1. All parties are to attend the pre-hearing conference, but if any party is absent from the pre-

- hearing conference it will proceed as if the absent party were present;
2. The Hearing Panel will review the complaint to make sure it complies with the Code;
 3. If a majority of the Hearing Panel determines that the complaint does not comply with the Code, the complaint will be dismissed;
 4. The Hearing Panel shall facilitate settlement discussions between the parties. If the parties can informally resolve their differences, the complaint will be withdrawn by the claimant;
 5. The Hearing Panel will conduct a review of the submitted evidence to determine if it is relevant to the issues raised in the complaint. If a majority of the Hearing Panel determines any of the evidence is irrelevant to the issues raised in the complaint, that evidence will be deemed inadmissible at the hearing;
 6. The complainant will make an verbal showing that, if taken as true, the evidence and witness testimony more likely than not shows that there may be a potential violation of the Prohibited Conduct section of the Code;
 7. If a majority of the Hearing Panel finds that the complainant has failed to establish that the evidence and witness testimony, if taken as true, does not show that it is more likely than not that a violation of the Prohibited Section of the Code has occurred, the complaint will be dismissed;
 8. If necessary, a hearing date will be set;
 9. The Hearing Panel may discuss and act upon whether or not subpoenas are necessary to be issued; and
 10. The Hearing Panel may set time limits for the parties to present their evidence at the hearing.

On April 4, 2018, the Governmental Affairs Committee with Chair Melendrez, Vice-Chair Gardner, and Member Conder present, unanimously recommended the City Council approve the change to the Code of Ethics and Conduct as presented by the Board of Ethics.

FISCAL IMPACT:

None.

Prepared by: Robert L. Hansen, Assistant City Attorney
Approved as to form: Robert L. Hansen, Assistant City Attorney

Concurs with:



ANDY MELENDREZ, Chair
Governmental Affairs Committee

Attachment: Proposed ordinance amending RMC 2.78