



City of Arts & Innovation

Board of Ethics Memorandum

TO: BOARD OF ETHICS **DATE: NOVEMBER 2, 2023**

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

**SUBJECT: PRE-HEARING ON THE CODE OF ETHICS AND CONDUCT COMPLAINT
FILED BY BEN CLYMER, JR. REGARDING CITY COUNCILMEMBER
CERVANTES**

ISSUES:

Conduct a pre-hearing on the Code of Ethics and Conduct complaint filed on October 10, 2023, by Ben Clymer, Jr. regarding City Councilmember Cervantes.

RECOMMENDATION:

Hold a pre-hearing as required by Riverside Municipal Code Section 2.78.080 on the Code of Ethics and Conduct complaint filed on October 10, 2023, by Ben Clymer, Jr. regarding City Councilmember Cervantes.

DISCUSSION:

Riverside Municipal Code Section 2.78.075 requires the Board of Ethics 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 Board of Ethics 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 Board determines that the complaint complies with the mandates outlined above, then the Board shall facilitate settlement discussions between the parties.
- If settlement is not reached between the parties, then the Board 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 Board 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. The public official will have the option or opportunity to present as well.
- If the Board determines that it is more likely than not that there may be a potential violation of the prohibited conduct as indicated in the complaint, then a hearing panel shall be selected in accordance with RMC Section 2.80.040(B).
- The City Clerk shall set a hearing date within 20 City business days of the pre-conference. The hearing date shall be within 45 City business days following the pre-conference.
- May set time limits for parties to present evidence at the hearing on the complaint.
- Rule on any procedural matters raised by the complainant or public official.
- If the Board determines that the complaint has failed to show that it is more likely than not that there may be a potential violation of the prohibited conduct section, the Chair of the Board of Ethics shall instruct the City Clerk to prepare a Statement of Findings to be adopted at the next regular meeting. Alternatively, the Board of Ethics may designate members of the Board to prepare the findings and shall be adopted at the next regular meeting. This statement of findings shall be considered the final decision of the Board of Ethics.

FISCAL IMPACT:

There is no fiscal impact associated with this report.

Prepared by: Brandon Mercer, Senior Deputy City Attorney

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

Attachments:

1. Complaint by Ben Clymer, Jr.
2. RMC 2.78 and 2.80 – Code of Ethics and Conduct
3. Hearing Rules and Procedures