

ATTACHMENT TO CITY ETHICS COMPLAINT FORM

Pre-Hearing Procedural Objections

- 1) We object to the City Attorney serving as an advisor to the Ethics Hearing Committee ("Committee").

Per City Charter Section 702 (b), the City Attorney is to, "represent and appear for the City in any or all actions or proceedings in which the City is concerned or is a party, and represent and appear for any City officer or employee, or former City officer or employee, in any or all actions and proceedings in which any such officer or employee is concerned or is a party for any act arising out of such officer's or employee's employment or by reason of such officer's or employee's official capacity."

The City Attorney cannot fulfill its obligation under the Charter and remain as independent counsel to the Committee. This is an obvious conflict of interest.

- 2) We object to the City's retention of outside legal counsel for Councilman Adams ("Adams"), should that occur. Any outside legal counsel would be required to report to the City Attorney. Therefore, retention of such outside counsel would not alleviate the conflict, but rather would create an additional layer of conflict.
- 3) We object to the drafting of the ethics hearing protocols by the City Attorney's Office. Per Section 804 of the City Charter: "Each board or commission may prescribe its own rules and regulations which shall be consistent with the Charter and copies of which shall be kept on file in the Office of the City Clerk where they shall be available for public inspection." Resolution No. 22590 violates the Charter by allowing a conflicted City Attorney to unilaterally adopt the protocols for ethics hearings.
- 4) We object to any ex-parte communication between outside legal counsel provided to Adams, should it be so provided, and the Committee members or their counsel, regarding any matters concerning this complaint. Should such communications occur, we demand that we be advised of the nature of such communications, and based upon such information, may request dismissal of Adams' counsel and certain Committee members to ensure a fair hearing. Per the California Public Records Act, we request copies of all contracts and invoices for any outside legal services rendered to the City and/or its officers, employees or committee members related to this hearing.
- 5) We object to any current City of Riverside Board or Commission members serving on the Committee for this hearing. These appointed officials owe a duty to the City of Riverside, and hence have a considerable conflict in remaining independent. Further, they themselves fall under the jurisdiction of the Code of Ethics and Conduct and are therefore not unbiased in its interpretation.
- 6) For the same rationale as above, we object to the Riverside City Council serving as the appellate body.
- 7) We object to the 15 minute time limitation for presentation of our case. We question the fairness of this protocol, and its compliance with the Code of Ethics and Conduct (Resolution No. 22318) itself, given the unlimited time limit given to the City to present its case.
- 8) We object to not being permitted to compel witnesses and evidence, as allowed under Section 804 of the City Charter.

- 9) We object to not being permitted to question Adams regarding his statements. We question the absence of this protocol, and whether this absence violates the Code of Ethics and Conduct (Resolution No. 22318) itself.

Pre-Hearing Motions

Based upon the procedural objections listed above, we make the following motions:

- 1) Pursuant to Section 804 of the City Charter, which provides that "Each board or commission may request from the City Council the power to compel the attendance of witnesses, to compel the production of evidence before it . . . The City Council, by resolution, shall have sole power to provide such power to boards and commissions", we motion that the Committee make such a request, and that the Council approve it.
- 2) The City Attorney's Office recuse itself immediately from serving as counsel to the Ethics Committee.
- 3) Members of the Ethics Committee who find themselves conflicted, remove themselves from this hearing.
- 4) All protocols for the hearing be agreed upon by mutual consent of the parties.

Violations of Ethic Code by Councilman Adams

At the Government Affairs Committee Meeting for the City of Riverside, held on October 2, 2013, Councilman Steve Adams stated in open public session that he had witnessed members of the Riverside City Council inject themselves into the Request for Proposal ("RFP") process to try and "influence" the process. He went on to state that these actions were "inappropriate". Subsequently thereafter, at the November 19, 2013 City Council Meeting, during discussion of Consent Calendar Item No. 21, a copy of which is attached hereto as Exhibit A and incorporated herein by reference, Councilman Adams again reiterated his comments, stating that he had "absolutely" seen council members try to influence things (referring to the RFP process) and that their actions were inappropriate. Transcriptions taken from official audio tapes produced by the City Clerk of Councilman Adams' statements at both the Governmental Affairs and City Council meetings are attached hereto as Exhibits B & C respectively and incorporated herein by reference.

At no time did Council Adams report this wrongdoing to the authorities or the full City Council, nor did he bring this information forward to the public. Councilman Adams' acts of omission constitute a violation of the City of Riverside's Code of Ethics, codified in Resolution No. 22461, more specifically, sections D(1)(2)(3) and (10), which provide in pertinent part:

...

D (1) Creating Trust of Local Government.

The elected and appointed officials of the City of Riverside shall aspire to operate . . . in a manner which creates trust in their decisions and the manner of delivery of programs through the local government. The officials shall aspire to create a transparent decision making process by providing easy access to all public information about actual or potential conflicts between their private interests and public responsibilities. . .

D (2) Making Unbiased, Fair and Honest Decisions.

The elected officials . . . shall aspire to ensure that their decisions are viewed as unbiased, fair and honest. They shall strive to avoid participation in all decisions which create a real or perceived conflict of interest and to disclose any personal interest that would be perceived to be in conflict with the fair and impartial exercise of their responsibilities. . .

D (3) Use of Office for Services to the Public Good and Not for Personal or Private Gain.

The elected and appointed officials of the City of Riverside have a responsibility to use the benefits of public office exclusively for the public purpose for which it was created. Elected and appointed officials shall not use the Office for personal or private gain. . .

D (10) Ensuring against Undue Influence.

Neither the Mayor nor any member of the City Council shall contact a board, commission or committee member at any time for the purpose of influencing that member with respect to the discharge of his/her official duties.

First, with respect to section D(1), Adams did not create a transparent decision making process, but rather a deceptive one, by permitting matters to move forward for approval by the City Council without disclosing the undue influences he had observed and the material impacts they may have had on the decision making process and the award of contracts.

Regarding section D (2), Adams decisions were anything but unbiased, fair and honest. He elected to participate in votes for the award of contracts knowing that his colleagues had engaged in “inappropriate” conduct by injecting themselves into the RFP process to influence the selection process. This knowledge created an absolute conflict of interest and should have been disclosed to the public.

Adams’ actions constitute a violation of section D(3) in that he allowed contracts to move forward for approval by the full City Council knowing that his colleagues had injected themselves into the RFP process to unduly influence the selection process, in essence ratifying the inappropriate actions of the responsible council persons through his vote.

Finally, Adams’ inactions are a violation of section D (10) in that he failed to disclose that his colleagues injected themselves into the selection process to unduly influence the selection committee’s determination.

Alternative Disposition

In the event that the Committee determines that Adams did not violate the Code of Ethics, we respectfully request that the Committee make a recommendation to the City Council that Adams be required to disclose the names of the councilpersons that are the subject of his statements and all acts he witnessed that constitute “inappropriate” conduct on the part of such councilpersons to unduly

influence the RFP process and the award of contracts. We further request that the Committee recommend that all information obtained from Adams be forwarded to the District Attorney and Inland Empire Corruption Task Force for further investigation and possible criminal prosecution.

Notice of Lot Drawing

We further request that we be provided written notice of when and where the lot drawing will occur for the committee member selection so that we may be present.