

FROM THE DESK OF

KEITH J. NELSON

April 29, 2014

Honorable Mike Soubirous
City of Riverside
3900 Mail Street
Riverside, CA. 92506

RE: Code of Ethics - J. Hunter v. Human Resources Board members

Dear Mr. Soubirous,

It was a pleasure speaking with you recently at the Boards and Commissions Annual Dinner. Unfortunately, my message today concerns a most troublesome matter. Let me begin by stating emphatically that this letter is not private. Instead, it is intended for you to share with your colleagues on the City Council, and whomever else you deem it contents would benefit. I would, in fact, read this letter into public comment at the next City Council meeting, but it would I'm certain exceed the three minute limitation allowed for such.

I will go off topic for just a moment and formally introduce myself in an effort to create clarity as to my interest and involvement in this matter. I am a 25+ year resident of Riverside who has endeavored to remain active in our community. As you may recall when you were running for Council, I contacted you to discuss your views and commitments on certain issues I feel important to our city. I have three adult children, plus one I am still raising here. I have been involved at many different levels with the city and surrounding area, including but not limited to: the Commission on Disabilities (chairman), Inland Regional Center (Board of Trustees), Team USA Special Olympics (coach), Special Olympics of Southern California (Regional Advisory Council), Regional Center (Business Committee), Arlington Little League (coach, Board of Directors), AYSO Region 47 soccer (founder, coach, Board of Directors), Poly High School Special Needs Boosters clubs, Poly High ROTC Boosters club...and more. I hope that this listing demonstrates my commitment to our community. I have always wanted to be proud of the city I live in.

To the matter at hand: I have served on a few Code of Ethics and Conduct adjudicating bodies ("AB") during my tenure as the Chairman of the city's Commission on Disabilities. I have always taken this responsibility extremely serious. If you were to review the administrative records of these hearings, I believe you would find that I often ask the most questions on the AB and deliberate issues of concern at substantial length. As a commissioner and member of an adjudicating body, I find our job comes with a multiple of masters: to our fellow citizens by striving to improve the city in which we live; and to the

Council itself, representing our local government towards achieving the highest level of integrity.

Out of all the ethics hearings I have been involved with, the case involving Jason Hunter really bothers me the most from many perspectives. First, the role of the City Attorney's office, throughout the entirety of the process, was deeply concerning. At the ethics hearing, we were instructed by the City Attorney's office that it could both represent the city (Human Resource Board members, "HRB") through outside counsel (Mr. Doug Smith) and serve as neutral counsel to the adjudicating body. We were also informed that the HRB members themselves would not be made available to the AB. As I consider the goal of our Code of Ethics and Conduct, established by our City Charter, is to provide both an actual and a perception of transparency, this dual role and lack of access to key parties is difficult to come to terms with. As such, I am left with the notion that our powers as finders of fact have been curtailed somewhat needlessly.

I have followed up on this matter in particular, because as an adjudicating body a definitive part of our final decision was to bring specific areas of conflict and concern within disciplinary hearings being run by our city staff to the attention of the City Council. My vote, in fact, was predicated on my motion to present said report to the Council (see minutes of December 13, 2013). To date, for reasons mostly unknown to me, this action has not been taken despite assurances of such from the AB Chairman, Mr. Justin Scott-Coe. I will elaborate more as I walk you through the ethics hearing from my perspective. I strongly believe that failing to address these core issues renders the entire Code of Ethics and Conduct complaint process pointless, and wastes significant time on behalf of all parties involved.

Concerns:

- Limitation of Scope. As an adjudicating body our ability to request information was virtually non-existent. We could not require testimony, subpoena documents nor investigate issues outside of the strict scope outlined by the City Attorney. And yet, we were presented by the city with no justification for this being so. I find these constraints overly burdensome, particularly in light of HRB counsel (Mr. Smith) materially misrepresenting to the Council at the March 25, 2014, appeal hearing that Mr. Hunter had the opportunity to present all evidence. This statement was simply untrue. In fact, many of my reservations during the ethics hearings themselves centered around the somewhat arbitrary limitations put on Mr. Hunter concerning evidence he could present and his ability to provide testimony, either his or other witnesses.
- Training of the Human Resources Board. Of the misrepresentations made to the Council by Mr. Smith, this was the most egregious. There is simply no nice way of

stating this - he lied. Astonishingly, Mr. Smith told the Council the exact **opposite** of what we concluded. The adjudicating body clearly and unequivocally stated that as a body we were to make a presentation to the Council regarding proper training of boards and commissions, specifically chairmen, and the need for more transparent hearing procedures written in a way such that the average citizen would feel confident in the process and how to present evidence.

Mr. Smith sat in attendance at both ethics hearings as we quite clearly and repeatedly made these points. There was also significant concern over the lack of engagement by non-chair members of the HRB at Mr. Hunter's disciplinary hearing, and plain disregard for adherence to basic parliamentary procedure as evidenced in the video of this proceeding.

- Actions of the City Attorney. After viewing the video of the disciplinary hearing in question, and even taking a month-long recess to absorb its meaning, we as an AB concluded, clearly and without reservation, that we were extremely uncomfortable with the actions and demeanor of the City Attorney, Mr. Greg Priamos. However, we were informed by the City Attorney's office that this inappropriate behavior was out of the scope of our authority to review. Irrespective of such self-serving advice, our concerns and observations must be brought to the attention of the City Council:
 1. The City Attorney was seated in the middle of Council chambers (directly next to HRB Chairman, Mr. Norman Powell) at the disciplinary hearing, and not to the side as seated during regular Council meetings. This provides the visual that the City Attorney was indeed running the meeting. It should be noted that Mr. Priamos can be seen whispering advice to the Chair out of microphone reception throughout various points in the video.
 2. The City Attorney responds out of order, not waiting to be recognized by the Chair and without being asked for comment time after time. It is noticeable that his pro-city/anti-Mr. Hunter recommendations to the Chair are followed unswervingly and without debate by the HRB. In one instance, Mr. Priamos even recommends a pause in the proceedings **and leaves his seat before** the Chair acknowledges his request.
 3. In a disturbing revelation made after the conclusion of Mr. Hunter's ethics complaint hearings, Mr. Scott-Coe admitted to the AB that he had met privately with City Attorney, Mr. Priamos, just prior to the meeting to discuss the hearing in general, and the limits on presentation of evidence and testimony. If the goal our Code of

Ethics and Conduct complaint process is full transparency, those instructions should have been made to the entire AB in an open forum. In fact, Mr. Priamos' involvement at all at that juncture, in light of his behavior at the disciplinary hearing is perplexing. Additionally, the rules of Ethics Hearings should be made public, and properly vetted as such.

4. At the first ethics hearing, held on November 15, 2013, the AB discovered that Mr. Hunter had provided the city with a detailed list of objections and motions concerning the ethics hearing protocols provided to him by the City Attorney's office, prior to the AB convening. Without delving into these individually, I found it unsettling that the AB was not made aware of the existence of this list until the onset of the hearing, leaving us unprepared to tackle the issues and without justification from the City Attorney's office regarding their merits.
5. As it is not clear who wrote the rules for Mr. Hunter's disciplinary hearing, it is unknown who made the decision for the HRB to deliberate in secret with the City Attorney at the conclusion of the presentation of the city's case. Following, the actions of the HRB taken in this private setting were not announced later to the public. As such the AB could not determine how or why the HRB made its findings or determinations.

It was the general feeling of the AB that certain city staff, including the City Attorney's office, might have been in violation of the Code of Ethics and Conduct throughout the disciplinary process. However, once again, this was ruled outside the scope of our review by what-might-be-considered a conflicted City Attorney's office. Of grave concern were the delays by the city in providing Mr. Hunter with notices and rules, as well as access to particular evidence to provide an adequate defense.

We sincerely question the duality of roles played within the City Attorney's office (as active advocate and neutral counsel to the HRB) during Mr. Hunter's disciplinary hearing. Although we were assured this is standard operating procedure, we find the practice debatable as to its fairness. Again, this matter was ruled outside of scope of our investigation.

In conclusion, the true and accurate findings of the AB were misrepresented to the City Council and the mandated presentation per our unanimously-carried motion was never presented. These factors were paramount to my final vote. I don't believe anyone was comfortable with what they saw transpiring on the video of Mr. Hunter's disciplinary hearing. It was one of the rare times I was actually embarrassed by our city's actions.

This is not how I envision a City committed to Arts and Innovation, as well as progressive visions of open and transparent governance, conducts itself. Our presentation absolutely should have been made prior the Council hearing the appeal of our decision carried forth by Mr. Hunter in order to have the Council fully educated.

Further, I am at a loss as to why the AB was not informed individually of the Council appeal hearing on this subject. If in attendance, I would have used the public comment period to rebuke the misleading statements made by the HRB attorney.

This letter is only a high level summary of this matter, provided in an effort to induce open dialog and independent investigation of the facts surrounding both Mr. Hunter's disciplinary and ethics hearings, as well as the nature of these proceedings in general.

If you have any questions or concerns please feel free to contact me at your convenience. At this point, the highest motivation should be to provoke meaningful change as to how the city conducts its business in these regards.

Sincerely yours,



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