

Report Date: October 11, 2017

**CITY OF RIO RANCHO
REPORT OF ETHICS OFFICIAL**

General Information:	
Complainant	G. Robert Cook, Municipal Judge, City of Rio Rancho
Phone number/email	Not provided
Address	Not provided
Official subject of complaint	Cheryl Everett, Council member
Date of Complaint	October 5, 2017
Description of Complaint	Complainant alleges the Official has used inappropriate language and been dishonest in a text/email discussion with him.

Documents Reviewed:	
<i>Document Date</i>	<i>Description</i>
October 5, 2017	Ethics Complaint of G. Robert Cook, Municipal Judge
September 2016	Rio Rancho Revised Ordinances 2003 §39 Rev 9/16, An Ordinance Enacting a Code of Conduct for the City of Rio Rancho Employees, Elected Officials and Appointed Officials,

Recommendation: <input checked="" type="checkbox"/> Unsubstantiated <input type="checkbox"/> Substantiated

Findings:	
1	Rio Rancho Revised Ordinances 2003 §39(7) Conduct Avoiding Impropriety Requires Elected Officials to avoid conduct that creates the appearance of impropriety.
2	The Webster's Dictionary definition of "Impropriety" is <i>a failure to observe standards or show due honesty or modesty, improper language, behavior or character.</i>
3	Complainant made a phone call to City Councilor Cheryl Everett on September 28, 2017 and left a message.
4	City Councilor Cheryl Everett returned the Complainant's voice message via text message the same date.
5	The communication from City Councilor Cheryl Everett included language that is inappropriate in a professional setting.
6	On October 4, 2017, City Councilor Cheryl Everett sent a message to Complainant entitled "Apology".

Report:

Complainant does not allege a violation of any specific section of the Ordinance, therefore, the Ethics Official has reviewed the Ordinance in its entirety to determine if a violation of the Ordinance occurred based on the facts as stated in the Complaint.

Assuming all facts as stated in the Complaint as true, it appears that Complainant is alleging that City Councilwoman Everett used inappropriate language on a City issued cellular phone in response to his voice mail. She then fabricated a claim that her phone/email account was hacked and she was not responsible for the communication in question. Finally, a few days later, she admitted to the Complainant that she did send the communication to the Complainant with the inappropriate language.

The section of the Ordinance that is applicable here is §39(7) **Conduct Avoiding Impropriety** which states:

- A. *Elected Officials, Appointed Officials, and Employees shall avoid conduct that creates the appearance of impropriety or that is otherwise unbecoming a public official. An impropriety can mean misconduct or behavior that demonstrates an unethical process or improper influence.*

This specific language under examination is “...conduct that creates the appearance of impropriety...”. The term “impropriety” is not defined in the ordinance, but Webster’s dictionary provides the following, definition of “impropriety:

failure to observe standards or show due honesty or modesty, improper language, behavior or character

The Webster’s Dictionary definition gives guidance to this analysis but is not controlling. The conduct of Councilwoman Everett is analyzed under the standards set out in the Ordinance.

Councilwoman Everett used an abbreviated version of a word which can be construed as a vulgar, slang word that is not appropriate in professional settings. She then did not admit that she was the author of that communication until days later.

While the use of such language is not professional nor appropriate, its use in this context does not rise to the level of a violation of the Ordinance. The purpose and the policy of the Ordinance is stated in §39(1) **Declaration of Policy** and states in pertinent part:

The City of Rio Rancho seeks to foster and maintain transparency while conducting city business, creating policy and undertaking the day to day operation of the City. This Ordinance establishes minimum standards of ethical behavior and sets for the explicit standards of conduct by requiring Elected Officials, ... to disclose personal interests, financial or otherwise, in matters of the City...

The Ordinance seeks to ensure that elected officials do not use their power or position to for personal gain, while ensuring that the elected official acts professionally. The communication would not result in any personal benefit to Councilwoman Everett.

The communication by Councilwoman Everett seemed to be an off the cuff remark. It was a solitary occurrence and does not appear to reflect a violation of minimum standards of ethical behavior per the Ordinance.

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	Secondly, Councilwoman Everett's admission to sending the communication also does not rise to the level of a violation of the Ordinance. Her response to the Complainant's original message appeared to be to another individual and upon learning she was communicating with Judge Cook, she responded inappropriately, but her conduct does not rise to the level of a violation of the Ordinance and does not reflect a violation of minimum standards of ethical behavior per the Ordinance.
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Action:	
	Pursuant to §39(7) Conduct Avoiding Impropriety No further action is required, an Unsubstantiated Claim shall not be forwarded to the Ethics Panel.

Respectfully submitted:

/s/ Renee Barela-Gutierrez
Renee Barela-Gutierrez, Esq
Ethics Official