



CITY ATTORNEY

August 29, 2008

VIA FACSIMILE, EMAIL AND US MAIL

Deborah S. Reames
Earthjustice
426 17th St., 5th Floor
Oakland, CA 94612-2807

Dear Ms. Reames:

I write in response to your August 15 letter to the Mayor and Council Members alleging a violation of the Brown Act in connection with the Council's actions at its July 16-17 meeting concerning the Richmond Community Benefits Agreement. In your letter, you indicate that you are representing the Asian Pacific Environmental Network and the Communities for a Better Environment, and on their behalf you request that the City Council cure this alleged violation.

We have enclosed a copy of the agenda for the City Council's meeting of September 2, 2008. Please note that, as reflected by item L-1 of that agenda, the City Council will be considering approval of a resolution to approve the Community Benefits Agreement. Members of the public will be provided a full opportunity to express their views about whether the Council should approve that Agreement prior to the Council voting on the item. This action by the Council cures and corrects any alleged violation of the Brown Act.

Sincerely,

K. Scott Dickey
Chief Deputy City Attorney

Enclosures

cc: Mayor and All Council Members
City Manager
City Clerk



**City Hall
1401 Marina Way South
Richmond, CA 94804**

**AGENDA
Tuesday, September 2, 2008**

**Mayor
Gayle McLaughlin**

**Vice Mayor
John E. Marquez**

**Councilmembers
Thomas K. Butt
Nathaniel Bates
Ludmyrna Lopez
Jim Rogers
Harpreet S. Sandhu
Tony K. Thurmond
Maria T. Viramontes**

The Richmond City Council also serves as Board Members and Commission Members for the following:

**Community Redevelopment Agency
Housing Authority
Joint Powers Financing Authority
Surplus Property Authority
Local Reuse Authority**

Tuesday, September 2, 2008

MEETING PROCEDURES

The City of Richmond encourages community participation at its City Council meetings and has established procedures that are intended to accommodate public input in a timely and time-sensitive way. As a courtesy to all members of the public who wish to participate in City Council meetings, please observe the following procedures:

PUBLIC COMMENT ON AGENDA ITEMS: Anyone who desires to address the City Council on items appearing on the agenda must complete and file a pink speaker's card with the City Clerk **prior** to the City Council's consideration of the item. Once the City Clerk has announced the item and discussion has commenced, no person shall be permitted to speak on the item other than those persons who have submitted their names to the City Clerk. Your name will be called when the item is announced for discussion. [REDACTED]

OPEN FORUM FOR PUBLIC COMMENT: Individuals who would like to address the City Council on matters not listed on the agenda or on **Presentations, Proclamations and Commendations, Report from the City Attorney, or Reports of Officers** may do so under Open Forum. All speakers must complete and file a pink speaker's card with the City Clerk **prior** to the commencement of Open Forum. **The amount of time allotted to individual speakers shall be determined based on the number of persons requesting to speak during this item. The time allocation for each speaker will be as follows: 15 or fewer speakers, a maximum of 2 minutes; 16 to 24 speakers, a maximum of 1 and one-half minutes; and 25 or more speakers, a maximum of 1 minute.**

SPEAKERS ARE REQUESTED TO OCCUPY THE RESERVED SEATS IN THE FRONT ROW BEHIND THE SPEAKER'S PODIUM AS THEIR NAME IS ANNOUNCED BY THE CITY CLERK.

CONSENT CALENDAR: Consent Calendar items are considered routine and will be enacted, approved or adopted by one motion unless a request for removal for discussion or explanation is received from the audience or the City Council. A member of the audience requesting to remove an item from the Consent Calendar must complete and file a speaker's card with the City Clerk **prior to the City Council's consideration of Item C, Agenda Review.** An item removed from the Consent Calendar may be placed anywhere on the agenda following the City Council's agenda review.

The City Council's adopted Rules of Procedure recognize that debate on policy is healthy; debate on personalities is not. The Chairperson has the right and obligation to cut off discussion that is too personal, too loud, or too crude.

Evening Open Session

Tuesday, September 2, 2008

5:00 p.m.

- A. ROLL CALL
- B. PUBLIC COMMENT
- C. ADJOURN TO CLOSED SESSION

Closed Session

Shimada Room of City Hall

A. CITY COUNCIL

- A-1. LIABILITY CLAIMS - PENDING LITIGATION (Government Code Section 54956.9):

Claimant: Scyvitria Parker
Agency Claimed Against: City of Richmond

- A-2. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Subdivision [a] of Government Code Section 54956.9):

Parchester Village v. City of Richmond

- A-3. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
(Initiation of litigation pursuant to Subdivision (c) of Section 54956.9):

Two cases

Richmond Community Redevelopment Agency

6:55 p.m.

- A. ROLL CALL
- B. STATEMENT OF CONFLICT OF INTEREST
- C. OPEN FORUM FOR PUBLIC COMMENT
- D. CONSENT CALENDAR

Tuesday, September 2, 2008

- D-1. CONTINUED TO SEPTEMBER 16, 2008, ADOPT A RESOLUTION -**
authorizing the Executive Director to negotiate and execute an Exclusive Right
to Negotiate (ERN) with Kingston LLC, the Developer, for market rate and
affordable housing on a portion of the Miraflores Housing Development site -
Richmond Community Redevelopment Agency (Steve Duran/Patrick Lynch
307-8140).

E. ADJOURNMENT

CITY COUNCIL

7:00 p.m.

A. ROLL CALL

B. STATEMENT OF CONFLICT OF INTEREST

C. AGENDA REVIEW

D. PRESENTATIONS, PROCLAMATIONS, AND COMMENDATIONS

- D-1.** Presentation in honor of the late Reverend Charles H. Belcher, former Richmond
City Councilmember - Councilmember Bates (620-6581).

- D-2.** Presentation in honor of the late Richard L. Griffin, former Richmond City
Councilmember - Councilmember Bates (620-6581).

**E. REPORT FROM THE CITY ATTORNEY OF FINAL DECISIONS MADE AND
NON-CONFIDENTIAL DISCUSSIONS HELD DURING CLOSED SESSION**

F. CONSENT CALENDAR

- F-1.** ADOPT a resolution proclaiming September 15 - 28, 2008, as a period for
Pollution Prevention Awareness - Engineering (Rich Davidson 307-8105).

- F-2.** ADOPT two resolutions accepting (1) a grant of an exclusive public access
easement along the shoreline of the Seacliff Marina property for the purpose of
constructing, operating, and maintaining a pedestrian and biking trail, and (2) a
grant of a non-exclusive public easement along the shoreline of the Bottoms'
property for the purpose of vehicular access - City Attorney's Office (Louise
Renne 620-6509).

- F-3.** ADOPT a resolution to deny the appeal and affirm the Design Review Board's

Tuesday, September 2, 2008

approval of a Design Review Permit, subject to conditions, for the project located at 4917 Thunderhead Court - Planning and Building Services Department (Richard Mitchell 620-6706).

- F-4.** ADOPT an ordinance (second reading) amending the Zoning Ordinance to clarify the boundaries and applicable regulations of the Transition/Buffer Zone as set forth in the Knox Freeway/Cutting Boulevard Specific Plan - Planning and Building Services Department (Richard Mitchell 620-6706).
- F-5.** APPROVE a four month contract with Neher & Associates to conduct a recruitment for Deputy Budget & Financial Services Agency Director in an amount not to exceed \$19,500 - Human Resources (Leslie Knight 620-6600).
- F-6.** APPROVE a contract with Courtyard by Marriott from September 3, 2008, to December 31, 2008, to provide meeting space and catering services for the Firefighter Trainee interviews at an amount not to exceed \$14,500 - Human Resources (Leslie Knight 620-6600).
- F-7.** ADOPT a resolution authorizing the City Manager to execute a successor Memorandum of Understanding between the City and the Richmond Police Officers Association in accordance with the terms of the Tentative Agreement reached between the parties' representatives - Human Resources (Leslie Knight 620-6600).
- F-8.** ADOPT an ordinance (second reading) establishing wages, salary, and compensation for the new classification of Housing Asset Manager (Salary Range 067D: \$7,509 - \$9,099/month) – Human Resources (Leslie Knight 620-6600).
- F-9.** ADOPT a resolution amending the City of Richmond's position classification plan to add the classification of Neighborhood Change Agent - Human Resources (Leslie Knight 620-6600).
- F-10.** INTRODUCE an ordinance (first reading) establishing wages, salary and compensation for the new classification of Neighborhood Change Agent (Salary Range 14A: \$3,442 - \$4,161/month) - Human Resources (Leslie Knight 620-6600).
- F-11.** INTRODUCE an ordinance (first reading) amending the City's contract with CalPERS to permit active members of the City's Police and Firemen's Pension Plan to transfer to CalPERS - Human Resources (Leslie Knight 620-6600).
- F-12.** APPROVE a second amendment to the contract with Nichols Engineering to review a risk assessment and cost estimate prepared by the owners of 1 Barrett

Tuesday, September 2, 2008

Avenue, increasing the contract amount by \$7,500, for a total amount not to exceed of \$15,000, and extending the term until June 30, 2009 -City Manager's Office (Bill Lindsay 620-6512).

F-13. APPROVE the following appointments: Human Relations and Human Rights Commission: Sheryl Lane, term expires 3/30/10; Recreation and Parks Commission: Michael Leedie, term expires 10/26/11 - Mayor McLaughlin (620-6503).

F-14. APPROVE minutes of the Regular Meeting of the City Council held on July 22, 2008, and July 29, 2008 - City Clerk's Office (Diane Holmes 620-6513).

G. PUBLIC HEARINGS

G-1. HOLD A PUBLIC HEARING, and, if appropriate, MAKE THE REQUIRED FINDINGS pursuant to Federal Transit Administration (FTA) Section 5310 that there are no private nonprofit agencies available to provide demand-response and fixed-route transportation services for the elderly and disabled persons residing in the Richmond, Kensington, North Richmond, and El Sobrante areas for a minimum of 20 hours per week. These transportation services are to be provided to destinations within Richmond, East Richmond Heights, El Sobrante, Kensington, North Richmond, Rollingwood and parts of Pinole and Albany - Recreation Department (Keith Jabari 620-6791).

H. OPEN FORUM FOR PUBLIC COMMENT

I. AGREEMENTS

J. RESOLUTIONS

K. ORDINANCES

K-1. INTRODUCE an ordinance (first reading) amending Chapter 11.84 of the Richmond Municipal Code for a new special event application process, guidelines, and fees to help facilitate better event planning, department coordination, and recovery of City costs. The Public Safety/Public Services Standing Committee reviewed this item at its June 19, 2008 meeting, and recommends approval by the City Council - City Manager's Office (Bill Lindsay 620-6512).

K-2. INTRODUCE an ordinance (first reading) regulating public right-of-way encroachments and establishing encroachment permit requirements for video service providers, utilities and special districts - Engineering (Rich Davidson 307-8105).

Tuesday, September 2, 2008

- K-3.** ADOPT a six-month extension to the urgency ordinance providing for a temporary moratorium on the acceptance, processing and approval of applications and permits to construct, modify or place wireless telecommunication facilities within the City of Richmond through and including March 12, 2009 - Planning and Building Services Department (Richard Mitchell 620-6706).

L. COUNCIL AS A WHOLE

- L-1.** ADOPT a resolution granting approval to the Richmond Community Benefits Agreement, dated July 31, 2008 - City Manager's Office (Bill Lindsay 620-6512).
- L-2.** DISCUSS and RECONSIDER (1) the matter to appoint members to the Richmond Community Fund Advisory Committee (RCFAC) pursuant to the Richmond Community Benefits Agreement; and
- (2) RESCIND the vote taken at the July 29, 2008, City Council meeting appointing Councilmembers Bates, Sandhu and Lopez to the RCFAC and Vice Mayor Marquez as an alternate; and
- (3) SCHEDULE consideration of appointments to the RCFAC at the second City Council meeting in 2009 - Vice Mayor Marquez, Councilmembers Sandhu, and Viramontes (620-6581).
- L-3.** APPROVE Point Molate Remediation Agreement and a second amendment to the Land Disposition Agreement (LDA) between the City of Richmond and Upstream Point Molate LLC, to facilitate the early transfer of Point Molate from the Navy to the City of Richmond - City Manager's Office (Bill Lindsay 620-6512)
- L-4.** DISCUSS and PROVIDE DIRECTION to staff to gather information to present to the Council about the Oakland Fund for Children and Youth to determine if some aspects of this program could be considered in order to enhance capacity and accountability for youth services and activities in Richmond - Mayor McLaughlin and Councilmember Thurmond (620-6503/620-6581).
- L-5.** (1) DISCUSS and DIRECT staff on collection of utility taxes from the Chevron Corporation; and (2) AUTHORIZE up to \$250,000 for fiscal and legal assistance associated with the collection of outstanding receivables, if necessary, for the

Tuesday, September 2, 2008

collection of utility taxes owed to the City of Richmond by the Chevron Corporation - Councilmember Viramontes and Vice Mayor Marquez (620-6581).

L-6. APPROVE the request for funding from the Latina Center in the amount of \$10,000 through the Non-Profit Emergency Fund Program - Councilmember Lopez and Vice Mayor Marquez (620-6581).

L-7. DISCUSS AND DIRECT staff regarding potential changes to Council rules and procedures relating to the ability of members of the public to remove items from the consent calendar - City Attorney's Office (Louise Renne 620-6509).

M. **REPORTS OF OFFICERS: STANDING COMMITTEE REPORTS, REFERRALS TO STAFF, AND GENERAL REPORTS (INCLUDING AB 1234 REPORTS)**

N. **ADJOURNMENT**

This agenda may be previewed on KCRT – Channel 28, Richmond Television, City website ci.richmond.ca.us. Any documents produced by the City and distributed to a majority of the City Council regarding any item on this agenda will be made available at the Main Counter at City Hall located at 1401 Marina Way South.