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July 29, 2016

The Honorable Mayor Tom Butt and  
Members of the Richmond City Council  
440 Civic Center Plaza  
Richmond, CA 94804

Re: *Considering the "Richmond Kids First Initiative" at an August 2, 2016  
City Council Meeting*

Dear Mayor Butt and Members of the Richmond City Council:

I am writing to you as counsel for the proponents of the "Richmond Kids First Initiative: The Richmond Fund for Children and Youth Act" to request that the City Council approve a resolution placing the Richmond Kids First Initiative on the November 2016 ballot at a regular City Council Meeting on August 2, 2016.

As you know, article III, section 5 of the Richmond Charter states that the "Council shall fix the time and place for its regular meetings and adopt rules to govern its proceedings."<sup>1</sup> The Council has adopted such rules, through Resolution No. 2-07, and declared that such rules "*shall* govern all proceedings of the City Council . . ." (<http://ca-richmond2.civicplus.com/ArchiveCenter/ViewFile/Item/777>, emphasis added.) These Rules specify that regular meetings "shall be held on the first and third Tuesdays of the month," and that recess periods "shall begin after the first Tuesday in August." The City's own rules, promulgated in response to a requirement in the Charter, therefore require the City to hold a regular City Council meeting next Tuesday, August 2, 2016.

Although it may be permissible under some circumstances for the Mayor to exercise his discretion to cancel regular City Council meetings, it is not possible to do so here.

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<sup>1</sup>The Ralph M. Brown Act also requires local agencies to promulgate rules establishing the time and place for holding regular meetings. (Gov. Code, § 54954(a) ["Each legislative body of a local agency . . . shall provide, by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body, the time and place for holding regular meetings."].)

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Sections 9114, 9115, and 9266 of the Elections Code require elections officials to certify the results of the examination of ballot measure petitions to the City Council “at the *next* regular meeting” of the City Council. (Emphasis added.) Likewise, section 9255(c) of the Elections Code requires the City to submit to the voters any petition to amend the charter signed by 15% of the city’s registered voters. Because the results of the examination of the petitions for the Richmond Kids First Initiative were completed on July 25, 2016, the City Council has a duty to certify the qualification of the Initiative at its *next* regular City Council meeting and to place that measure on the November 2016 ballot.

The Council has already failed to fulfill that duty once, when it refused to act on the Richmond Kids First Initiative at its July 26, 2016 City Council meeting. We urge you to comply with your duty now, at the next regular City Council meeting on August 2, as provided for under the City’s own rules, promulgated in order to comply with the City’s own Charter.

The City’s failure to comply with these duties do not just violate the provisions of the Elections Code cited above. It interferes with “the sovereign people’s initiative power,” a right that is embedded in our Constitution and which, as you know, the California Supreme Court has declared to be “one of the most precious rights of our democratic process.” (*Strauss v. Horton* (2009) 46 Cal.4th 364, 453, abrogated on other grounds in *Obergefell v. Hodges* (2015) 135 S.Ct. 2584, quoting *Raven v. Deukmejian* (1990) 52 Cal.3d 336, 341.) Fifteen percent of Richmond’s registered voters have signed petitions to place this measure on the ballot, which seeks to establish a new special fund for children and youth in January 2017. These voters have a right to vote on that measure this November.

There is, as you know, abundant recent precedent for the City holding August meetings, including the regular meeting held on August 2, 2010, and the special meetings held on August 5, 2015, August 3, 2015, August 16, 2011, August 11, 2009, August 12, 2005, August 17, 2005, and August 31, 2004. Indeed, just last year, the City Council held the August 5, 2015 special meeting for the purpose of adopting the City’s rent control and just cause eviction ordinance before summer recess.

In short, the Council has a clear duty to act on these issues at its August 2, 2016 meeting, and, particularly in light of this well-established history of conducting City business in August, there is no legitimate reason to refuse to fulfill that duty here. Certain members of the City Council, including the Mayor, have made their opposition to the Richmond Kids First Initiative both public and plain. Although there are appropriate ways in which such members can express that opposition, refusing to comply with the duties outlined above is not one of them.

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Thank you, once again, for your time and consideration of these important matters. Please do not hesitate to contact me with any questions or concerns.

Sincerely,

*Margaret R. Prinzing / NR*

Margaret R. Prinzing

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