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August 2, 2016

**VIA EMAIL**

Bruce Goodmiller  
City Attorney  
City Attorney's Office  
450 Civic Center Plaza  
Richmond, CA 94804

Re: *Correspondence considering the "Richmond Kids First Initiative"*

Dear Mr. Goodmiller:

Thank you for your July 29, 2016 email and your August 1, 2016 letter, which responded to my July 29, 2016 letter concerning the City Council's duty to approve a resolution placing the Richmond Kids First Initiative on the November 2016 ballot at a regular City Council Meeting on August 2, 2016.

While I appreciate your prompt responses, your correspondence does not address the fact that the City Council's own rules of procedure specify that regular meetings must be held on the first Tuesday of the month, and that recess does not begin until after the first Tuesday in August. (*See* Resolution No. 2-07, <http://ca-richmond2.civicplus.com/ArchiveCenter/ViewFile/Item/777>.) As a consequence, the information you provided about the City's regular meeting schedule over the last twelve years demonstrates that the City has generally failed to comply with its own rules,<sup>1</sup> but it does not provide a legal basis for doing so. Furthermore, the history that I set forth in my July 29 letter demonstrates that the City regularly conducts business in August – at least eight times during six of the last twelve years.

As already noted, the Richmond Charter and the Ralph M. Brown Act require the Council to fix the time and place for its regular meetings and adopt rules to govern its proceedings. (Charter, art. III, § 5; Gov. Code, § 54954(a).) Having promulgated such rules in

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<sup>1</sup> The August 2, 2010 meeting is in fact identified on the City's website as a regular meeting rather than as a special meeting.

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response to these clear requirements, the City is not free to disregard them, regardless of whether it posts its intent to do so on its website.

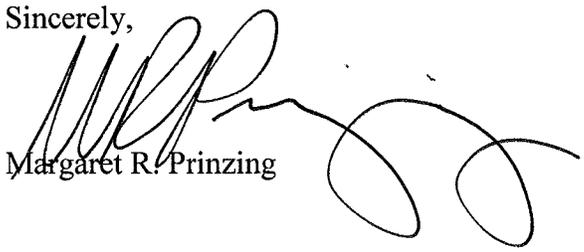
Your letter acknowledges that the Elections Code requires elections officials to certify the results of the examination of ballot measure petitions to the City Council “at the *next* regular meeting” of the City Council. (Elec. Code, §§ 9114, 9115, 9266, emphasis added.) Please note that these statutes do not provide exceptions for regular meetings where the City could have, but did not, place the item on the agenda in compliance with the Brown Act’s 72-hour notice requirement.<sup>2</sup> It does not provide exceptions for City officials who decline to exercise their discretion to consider matters pursuant to Government Code section 54954.2 (b)(2). And it does not provide exceptions for regular meetings that are required by a City’s own rules, but which the City would prefer not to conduct.

Your correspondence also does not address the fact that California courts have repeatedly “described the initiative and referendum as articulating ‘one of the most precious rights of our democratic process,’” and declared the need to resolve all reasonable doubts “in favor of the use” of that power.” (*Associated Home Builders Inc. v. City of Livermore* (1976) 18 Cal.3d 582, 591, citations omitted.) We regret that the City has failed to safeguard this power here, where the measure at issue is one publically opposed by certain members of the City Council and the Mayor.

Finally, your letter refers to “proponents’ last minute rush to beat the deadline.” As you may know, the City Clerk incorrectly told proponents that they needed the signatures from only 10% of the City’s registered voters, when they in fact needed signatures from 15% of the City’s registered voters. Notwithstanding this misinformation, proponents were still able to turn in the signatures necessary to qualify the measure for the ballot by June 22. This provided enough time for the County to determine that the measure qualified for the ballot before the City’s June 26 regular meeting, and enough time for the City to fulfill its duty to pass a resolution placing the measure on the November 2016 ballot.

Thank you, once again, for your time and attention to these issues.

Sincerely,

  
Margaret R. Prinzing

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<sup>2</sup> Although the county did not communicate certification results to City staff until July 25, the City could have included an item on the agenda that would have enabled it to certify the results at the July 26 meeting had such results become available.