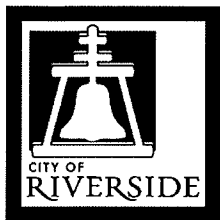


CITY COUNCIL MINUTES

TUESDAY, JULY 22, 2014, 1 P.M.
ART PICK COUNCIL CHAMBER
CITY HALL
3900 MAIN STREET

City of Arts & Innovation

		G A R D N E R	M E L E N D R E Z	S O U B I R O U S	D A V I S	M A C A R T H U R	P E R R Y	A D A M S
	WARDS	1	2	3	4	5	6	7
Roll Call:	Present	X	X	X	X	X	X	X
Mayor Bailey called the meeting to order at 1 p.m. in the Art Pick Council Chamber with all Councilmembers present.								
<u>DISCUSSION CALENDAR</u>								
<u>INVESTIGATION OF COMPLAINTS AGAINST COUNCILMEMBER SOUBIROUS</u>								
Following discussion, a motion was made and seconded to recess the meeting. Mayor Bailey ruled the motion out of order.	Motion Second		X		X			
Hearing was called to consider whether to take any action against Councilmember Mike Soubiros based upon the results of the investigation in response to complaints of administrative interference and harassment made by the City Manager and Chief of Police. Twenty-one people spoke on the matter. The public hearing was officially closed. Following discussion, the City Council closed the discussion without a vote.	Motion Second Ayes Noes	X	X	X	X	X	X	X
<u>PUBLIC HEARINGS</u>								
<u>COMMUNITY FACILITIES DISTRICT NO. 2014-2 (THE HIGHLANDS) - RESOLUTIONS - ORDINANCE INTRODUCED</u>								
Hearing was called to consider the formation of a Community Facilities District No. 2014-2 (The Highlands). One person spoke on the matter. The public hearing was officially closed.	Motion Second All Ayes	X			X			
Following discussion, the City Council adopted resolutions (1) establishing Community Facilities District No. 2014-2 (The Highlands) and establishing the boundaries thereof; (2) determining necessity to incur bonded indebtedness; (3) approving a Joint Community Facilities Agreement with Alvord Unified School District and that funding cannot be used for administrative offices outside the Riverside City limits; and (4) calling a Special Election on propositions with respect to the annual levy of special taxes and establishing an appropriations limit; whereupon, the titles having been read and further readings waived, Resolution No. 22729 of the City Council of the City of Riverside, California Establishing Community Facilities District No. 2014-2 (The Highlands) of the City of Riverside, County of Riverside, State of California, and Establishing the Boundaries Thereof; Resolution No. 22730 of the City Council of the City of Riverside, California Determining the Necessity for Community Facilities District No. 2014-2 (The Highlands) to Incur a Bonded Indebtedness in an Aggregate Principal Amount Not to Exceed \$3,500,000 for Providing Public Facilities and Calling								



City of Arts & Innovation

City Council Memorandum

TO: MEMBERS OF THE CITY COUNCIL DATE: JULY 22, 2014

FROM: MAYOR WILLIAM R. BAILEY, III WARD: ALL
MAYOR PRO TEM STEVEN K. ADAMS
INCOMING MAYOR PRO TEM JAMES PERRY

SUBJECT: HEARING ON INVESTIGATION OF COMPLAINTS AGAINST
COUNCILMEMBER MIKE SOUBIROUS FOR ADMINISTRATIVE
INTERFERENCE AND HARASSMENT

ISSUE:

The issue presented for City Council consideration is whether to take any action as against Councilmember Mike Soubirus based upon the results of the investigation in response to complaints of administrative interference and harassment made by the City Manager and Chief of Police.

RECOMMENDATION:

That the City Council conduct a hearing to consider the results of the investigation of the complaints and any information submitted in response thereto by Councilmember Soubirus and to take whatever action, if any, that the City Council deems appropriate.

BACKGROUND:

On March 28, 2014, the City Manager and Chief of Police each filed complaints with the City alleging that Councilmember Mike Soubirus engaged in administrative interference in violation of Riverside City Charter section 407 and that the offensive conduct unreasonably interfered with their work performance thereby creating a hostile working environment in violation of the City's Human Resources Policy and Procedure Manual Section III-6. On April 1, 2014, the City Council (with Councilmember Soubirus excused and Councilmember Davis absent) unanimously directed that an independent investigation immediately be commenced as required by state law and City policy. Mr. Leonard Gumport of Gumport Mastan was retained to conduct the investigation.

Riverside City Charter section 407 – Interference in Administrative Service, provides in pertinent part:

Neither the Mayor nor the City Council nor any of its members shall interfere with the execution by the City Manager of his/her powers and duties, or order, directly or indirectly, the appointment by the City Manager or by any of the department heads in the administrative service of the City, of any person to an office or employment or their removal therefrom. Except for the purpose of inquiry, the Mayor, the City

Council and its members, shall deal with the administrative service under the City Manager solely through the City Manager and neither the Mayor nor the City Council nor any member thereof, shall give orders to any subordinates of the City Manager, either publicly or privately.

Section III-6 of the City's Human Resources Policy and Procedure Manual provides that "harassment" may consist of offensive verbal, physical, or visual conduct when such conduct is based on or related to an individual on the basis of race, color, ancestry, religious creed, disability, medical condition, age (over 40), marital status, sexual orientation or any other protected classification under applicable law, and the offensive conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile or offensive working environment.

Furthermore, Resolution No. 22676 governing the Rules of Procedure and Order of Business provides that the Mayor and City Council shall not publicly criticize an individual employee. The Resolution further provides that the Mayor and Councilmembers shall not get involved in personnel issues except during a closed session where personnel issues may be discussed or as otherwise appropriate concerning the City Manager, City Attorney, City Clerk or other staff as appointed by the City Council. Lastly, the Resolution provides that if a Councilmember is unhappy about a department or an employee, he/she may discuss the situation with the City Manager, Assistant City Manager, Deputy City Manager, or the City Attorney or City Clerk as appropriate.

Attached to this report is a copy of the completed investigation for consideration by the members of the City Council.

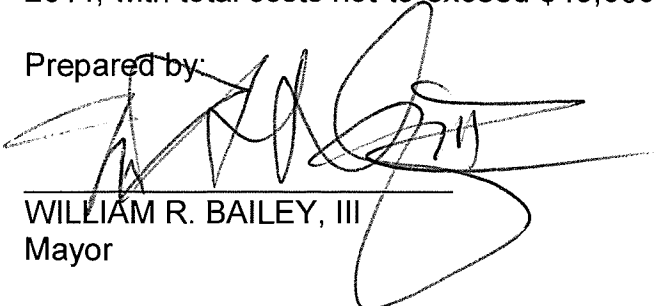
After careful consideration and deliberation concerning the facts, conclusions and recommendations set forth in the report as well as consideration of any information and/or response provided by Councilmember Soubirous, City Council may consider any of the following in response thereto:

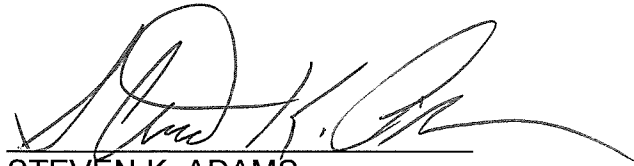
- Take no action
- Public censure
- Removal from committee chairmanship
- Removal from standing committee assignments
- Removal from Mayor Pro Tem rotation
- Removal from regional organization assignments
- Referral to the Riverside County District Attorney's Office for investigation as to whether or not a crime has been committed for violation of Charter section 407.

FISCAL IMPACT:

The cost for Mr. Gumport's services to investigate the complaints is \$30,195 as of June 17, 2014, with total costs not-to-exceed \$49,000.00.

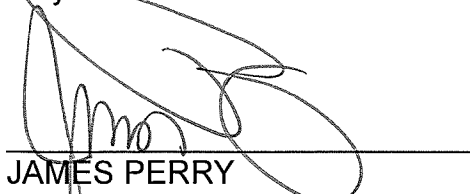
Prepared by:


WILLIAM R. BAILEY, III
Mayor

A handwritten signature in black ink, appearing to read 'Steven K. Adams', written over a horizontal line.

STEVEN K. ADAMS

Mayor Pro Tem

A handwritten signature in black ink, appearing to read 'James Perry', written over a horizontal line.

JAMES PERRY

Incoming Mayor Pro Tem

**PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION**

June 2, 2014

**REPORT OF INVESTIGATION OF CERTAIN ALLEGATIONS MADE
CONCERNING COUNCILMEMBER MICHAEL SOUBIROUS**

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REPORT OF INVESTIGATION

[I] INTRODUCTION

On April 7, 2014, the City of Riverside ("City") hired the law firm of Gumport | Mastan ("G|M") to conduct an independent investigation of disputed allegations made concerning Councilmember Michael Soubirous (the "Councilman"). This is G|M's report of that investigation.

This report should be read as consisting of G|M's opinions about disputed facts. This report is not the result of a trial on the merits, and the contents of this report are not binding on anyone. G|M reserves the right to amend or supplement this report in light of any additional information that may come to G|M's attention. This report is a confidential and privileged attorney-client communication between G|M and the City.

On Valentine's Day, February 14, 2014, the Councilman met with Police Sergeant Brian Smith ("Sergeant Smith") of the Riverside Police Department ("RPD"). The meeting occurred at a Starbuck's on Arlington.

In addition to being a member of the RPD, Sergeant Smith is President of the Riverside Police Officers Association ("RPOA"), which supported the Councilman's opponent, Valerie Hill, in the last election.

The Councilman and Sergeant Smith were the only participants at the February 14, 2014 the meeting. At the meeting, the Councilman and Sergeant Smith discussed increasing security at City parks.

In particular, the Councilman and Sergeant Smith discussed the issue of whether the City should increase security at City parks by hiring private guards instead of utilizing the finite resources of the RPD.

Exhibit A is a copy of a written statement (the "5/14/14 Statement") that the Councilman provided to G|M on May 14, 2014. **Exhibit B** is a copy of the transcript of G|M's April 15, 2014 interview of Sergeant Smith.

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After the meeting, Sergeant Smith notified third parties, including Chief of Police Sergio Diaz ("Chief Diaz"), that the Councilman had made statements about votes on the City Council to terminate City Manager Scott Barber and Chief Diaz unless action was taken to improve park security.

The private meeting between the Councilman and Sergeant Smith (and Sergeant Smith's subsequent statements about what allegedly happened at the meeting) disrupted the efficient functioning of the City by generating reasonable concerns about what may have been said by the Councilman at the meeting. **Exhibit C** includes a copy of the complaint submitted to the City on or about March 28, 2014 based on Sergeant Smith's allegations.

If believed, Sergeant Smith's version of what was said at the meeting could lead a person to conclude that the Councilman violated the non-interference provisions of Section 407 of the City Charter (the "Charter").

However, the Councilman provided the 5/14/14 Statement disputing Sergeant Smith's version of what was said at the February 14 meeting. If believed, the Councilman's written statement would lead a person to conclude that the Councilman did not violate Section 407 of the Charter.

This report concludes that, particularly in light of the context of the meeting and the lack of third party participants in the meeting, there is no way to determine with a reasonable degree of certainty what the Councilman and Sergeant Smith said at the February 14, 2014 meeting.

The February 14, 2014 meeting and its fallout, including the time and expense of G|M's investigation, demonstrate the cost and disruption that can occur when Councilmembers directly deal with subordinates of the City Manager instead of dealing with them through the City Manager.

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Section 407 of the Charter provides in relevant part: "Except for purpose of inquiry, the Mayor, the City Council and its members shall deal with the administrative service under the City Manager solely through the City Manager and neither the Mayor nor the City Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately."

Exhibit D includes a copy of Section 407.

[II] SUMMARY

[A] The disputed allegations involve whether, during the February 14, 2014 meeting, the Councilman made comments to Sergeant Smith that criticized the City Manager and the Chief of Police in such a manner as:

[1] to violate the non-interference provisions of Section 407 of the Charter or the City's Code of Ethics;

[2] to create a hostile work environment in violation of the City's Harassment Free Workplace Policy or other applicable law;

[3] to indicate that Councilmembers privately voted to terminate the employment of the City Manager, thereby possibly violating the Ralph M. Brown Act, Govt. Code § 54950 et seq. (the "Brown Act").

[B] What occurred at the February 14, 2014 meeting between the Councilman and Sergeant Smith is the subject of materially conflicting accounts by the Councilman and Sergeant Smith. There were no third party witnesses to the February 14 meeting.

[C] Sergeant Smith gave his account of the February 14, 2014 meeting at a transcribed interview on April 15, 2014. Sergeant Smith's account of the February 14 meeting, if believed, indicates that the Councilman made statements that: (1) expressed dissatisfaction with the job performance of

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City Manager Scott Barber ("City Manager Barber") and/or Chief Diaz and (2) indicated that there were or would be votes by Councilmembers to remove the City Manager and/or Chief Diaz if they did not improve their performance. *If believed*, Sergeant Smith's account would tend to show that, among other things, the Councilman violated Section 407 of the Charter by interfering with the City Manager.

[D] The Councilman disputes Sergeant Smith's account. Although the Councilman declined to be interviewed, he provided the 5/14/14 Statement through his counsel, Danuta Tuzynska. *If believed*, the Councilman's 5/14/14 Statement shows that: (1) Sergeant Smith's version of the February 14, 2014 meeting is inaccurate; (2) the Councilman did not disparage or undermine City Manager Barber or Chief Diaz at that meeting; (3) the Councilman did not indicate at that meeting that there were or would be votes to remove the City Manager; and (4) the Councilman did not violate Section 407.

[E] During his interview, Sergeant Smith made this prediction:

.... I know how this plays out. It's a he-said, she-said, and he's going to say I was having a conversation with a president of the [RPOA]. I didn't see him as Scott's employee or as Sergio's employee. Brian and I are friends. We have had conversations in the past, those types of things.

[4/15/14 Smith Trans., p. 12:17-22.]

[F] By reason of the history between the Councilman and the RPOA (which backed an opponent of the Councilman's in the prior election) and the lack of third party witnesses to the February 14 meeting, there is no reasonable basis to conclude, one way or the other, which account of the meeting is accurate.

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[G] It does not appear that the Council ever voted to remove City Manager Barber or Chief Diaz. In addition, it does not appear that the Council or its members informally or secretly voted to remove the City Manager or Chief Diaz.

[H] In light of the conflicting accounts of the February 14 meeting and the prior history between Sergeant Smith and the Councilman, (and in light of emails of the Councilman and his Field Representative), it strongly appears that there is insufficient information to justify finding that, in connection with the February 14, 2014 meeting, the Councilman violated the Charter, caused or created a hostile work environment for the City Manager, or violated the City's Code of Ethics.

[I] Sergeant Smith's disputed allegations about what was said by the Councilman at the February 14, 2014 meeting gave the City Manager and Chief Diaz reasonable cause for concern, and the City promptly and thoroughly investigated those concerns through G|M.

[III] EXHIBITS

Not all materials reviewed by G|M are submitted with this report. However, all such materials are available, subject to appropriate review for privilege and confidentiality by the City Attorney. As stated, this report is privileged and confidential. For the convenience of the reader, certain key documents are attached:

Exhibit A includes the 5/14/14 Statement of the Councilman.

Exhibit B is the transcript of G|M's 4/15/14 interview of Sergeant Smith.

Exhibit C includes copies of the March 28, 2014 complaint that G|M investigated.

Exhibit D is a copy of Section 407 of the Charter.

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Exhibit E is the transcript of GJM's 4/15/14 interview of RPD Detective Aurelio Melendrez.

Exhibit F includes an excerpt from a copy of the Councilman's profile on the City's website.

Exhibit G includes a copy of a February 4, 2014 newsletter from the Councilman.

Exhibit H is a copy of a February 8, 2014 email from the Councilman to a constituent.

Exhibit I is a copy of a February 10, 2014 email from the Councilman to his Field Representative, Linda O'Donnell.

Exhibit J is a copy of an email from the Councilman to Joseph Allen of PDM Web Solutions, Inc.

Exhibit K is a copy of the City Council Minutes for the Council meeting that occurred on February 11, 2014.

Exhibit L is a copy of an email from Lieutenant Eric Charette of the RPD to the Councilman.

Exhibit M is a copy of a March 1, 2014 email from the Councilman to Christopher Pracht.

Exhibit N includes the letter agreement, signed on April 7, 2014, in which the City hired GJM to investigate the March 28, 2014 complaint. (Exhibit C contains a copy of that complaint).

Exhibit O is a copy of an April 7, 2014 letter from Danuta W. Tuszynska (the Councilman's lawyer) to City Manager Barber.

Exhibit P includes a copy of an April 17, 2014 email from GJM requesting access to emails of the Councilman and his Field Representative.

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Exhibit Q is a copy of an April 21, 2014 letter from Mark H. Meyerhoff of Liebert Cassidy & Whitmore to Ms. Tuszynska.

Exhibit R includes a copy of an April 22, 2014 email from Ms. Tuszynska explaining that the Councilman declines to be interviewed.

Exhibit S includes a copy of a May 9, 2014 email from Ms. Tuszynska in which she confirms that the Councilman is willing to answer written questions.

Exhibit T is a copy of a May 9, 2014 email containing the written questions propounded by G|M to the Councilman. (The Councilman's answers to those questions are Exhibit A, i.e., the 5/14/14 Statement.)

Exhibit U is a copy of Sections 2.08.010-020 of the Riverside Municipal Code.

Exhibit V is a copy of the City's Harassment Free Workplace Policy.

Exhibit W includes a copy of the City's Code of Ethics.

Exhibit X includes a copy of an article by Melanie M. Poturica and David Urban entitled "A City Council Member's Role With Respect to Individual City Employees," downloaded from <http://www.westerncity.com> (last visited 4/25/14).

[IV] METHODOLOGY

On April 7, 2014, the City signed a letter agreement to employ G|M to investigate certain allegations concerning the Councilman. [Ex. N.]

On April 7, 2014, on behalf of the Councilman, his attorney, Danuta W. Tuszynska, notified the City Manager of multiple objections to the investigation. [Ex. O.]

On April 22, Ms. Tuszynska confirmed that the Councilman declined to be interviewed. [Ex. R.]

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Because all interviews were voluntary, and because the Councilman was the subject of the investigation and subsequently provided written answers to G|M's questions, G|M's view is that **no** negative inference should be drawn concerning the Councilman's understandable hesitancy about providing an interview. The Councilman's decision, however, did increase the time and expense involved in conducting the investigation.

On April 17, 2014, G|M requested the City to produce various public records, including emails sent on the City's computer system or servers by Councilmember Soubirous or his Field Representative on designated subjects during January 15, 2014 through March 15, 2014. [Ex. P.] The requested emails were provided and were reviewed by G|M.

During April-May 2014, G|M interviewed witnesses, other than the Councilman. In the interest of transparency, each interview was transcribed by a court reporter. Witnesses were told that they could go off the record at any time but that statements made off the record would not be relied upon by GM in conducting this investigation. This report does not rely on statements made by witnesses unless they were willing to make them in writing or to have them recorded or transcribed by a court reporter. Witnesses were not required to be sworn; G|M's view was that insisting on witnesses being sworn would make some witnesses hesitant to provide information.

The interviews did not reflect that anyone other than Sergeant Smith and the Councilman attended the February 14, 2014 meeting.

The interviews did strongly tend to confirm that Councilmembers never voted formally or informally to remove the City Manager or Chief Diaz. (Several of the interviews listed below relate to a second investigation that G|M is conducting and that is not the subject of this report.)

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During April-May 2014, G|M conducted transcribed interviews of:

(1) Councilmember Steve Adams (on 4/16/14); (2) City Manager Scott Barber (on 4/15/14 and 4/30/14); (3) Mayor Rusty Bailey (on 4/16/14); (4) Chief of Police Sergio Diaz (on 4/15/14); (5) Councilmember Paul Davis (on 5/29/14); (6) Councilmember Mike Gardner (on 4/16/14); (7) Assistant City Manager Deanna Lorson (on 4/30/14); (8) Councilmember Chris MacArthur (on 4/16/14); (9) Councilmember Andy Melendrez (on 4/15/14); (10) Police Detective Aurelio Melendrez (on 4/15/14); (11) Councilmember Jim Perry (on 4/16/14); (12) City Attorney Greg Priamos (on 4/15/14); (13) Police Sergeant and President of the Riverside Police Officers Association Brian Smith (on 4/15/14); (14) Community Services Superintendent Patricia Solano (on 4/30/14); (15) Assistant Chief of Police Christopher Vicino (on 4/15/14); and (16) Community Development Director Al Zelinka (on 4/29/14).

All interview transcripts are privileged and confidential and are available through the City Attorney. This report attaches what G|M regards as the most significant transcripts.

On May 8, 2014, after G|M interviewed other witnesses, the Councilman agreed through his counsel, Ms. Tuszynska, to provide written answers to written questions from G|M. [Ex. S.] On May 9, G|M submitted written questions, which were forwarded to Ms. Tuszynska through Mr. Meyerhoff of the Liebert firm. [Ex. T.]

On May 14, 2014, on behalf of the Councilman, his counsel provided written answers (i.e., the "5/14/14 Statement") to the May 9, 2014 questions of G|M. [Ex. A.]

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[V] FACTS

[A] Election of Soubirous as Councilman

In November 2013, Michael Soubirous defeated Valerie Hill in an election to become the Councilmember for Ward 3.

During the election, according to Sergeant Smith, the RPOA backed Soubirous' opponent, Ms. Hill: "And Mike [Soubirous] told us at the time after we picked Valerie, I think you're picking the wrong horse. And she's not going to outwork me. She can outspend me but she's not going to outwork me. And I'm going to be the Ward 3 council person." [4/15/14 Smith Trans., pp. 15:24-16:3.]

From Sergeant Smith's interview, it appears that tension developed between him and the Soubirous during the election and afterwards. After describing Soubirous' telling the RPOA that it was backing the wrong candidate, Sergeant Smith said: "Okay, Mike, good luck, you know. We put a lot of money in Valerie Hill. So much money into Valerie Hill, and Mike was so pissed off about it, he was printing out our 990s and giving them to employees that he's friends with, and asking them to confront board members with the amount of money we spent on Valerie Hill to put her in office." [4/15/14 Smith Trans., p. 16:3-8.]

Sergeant Smith further stated at his interview: "What pissed me off was that he [Soubirous] was meddling in my business by going to members and poking them, saying, you know, you spent \$40,000 on a loser. She lost by whatever number of votes it was but – so now I have some dissension in the ranks but we fixed it. [¶] So that's all building up to this February meeting because there's contact with my membership, which he's entitled to do. I mean, he has friends, it's fine." [4/15/14 Smith Trans., pp. 16:21-17:3.]

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[B] The Councilman's Feb. 4, 2014 Newsletter

On or about February 4, 2014, the Councilman posted a newsletter. The subjects discussed in the newsletter included two recent newspaper articles about placing armed guards in the City's parks. The newsletter stated: "The aggressive panhandling problem plaguing Riverside has been recognized by our City Council and City staff as needing immediate attention." [Ex. G.]

The newsletter also stated: "The use of armed or unarmed security guards was simply a suggestion and only one component of the overall proposed plan. [¶] The public's input would also be a part of this proposal which will ultimately be put before the City Council to decide." [Ex. G.]

[C] The Councilman's Feb. 8-10, 2014 Emails

On February 7, 2014, the Councilman received an email from Jane Kircher complaining about "panhandlers." [Ex. H.] The next day, by reply email, the Councilman wrote:

I am with you on this. I have seen and continue to see the same things you are seeing regarding the aggressive panhandling and our traffic officers. I watch RPD officers drive by panhandlers every day (and night). No action -- not even a look. I see our local units "working" the same sections of our City over and over, not venturing to our other problem places.

Please know that all seven Councilmembers are committed to curbing our aggressive panhandler problem. It must stop. I can understand the frustration our business owners and residents feel -- I see it too. I have been working to educate our council and city staff from my own law enforcement experience with

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panhandlers/homeless and will keep working on this till it is manageable.

Our City Manager has recently committed to tackling this problem head-on. He is developing a tactical plan that will include all involved departments and present it to the Council soon for approval and funding.

Part of the problem has been our PD's lack of enforcing our City's ordinances related to panhandling. This will stop. We will take back our City. With Council support this will happen. . . .

[Ex. H.]

On February 10, 2014, Jane Kircher sent another email to the Councilman on the subject of panhandlers or homeless. On the same day, in an email to his Field Representative, the Councilman wrote, among other things, "pass along to Lt. Vance Hardin." [Ex. I.]

[D] Feb. 11, 2014 City Council Meeting

On February 11, 2014, the City Council met and received an update on park security, including the issue of whether or not to use private armed guards. No formal action was taken. [See Ex. K, p. 2.]

[E] The Feb. 14, 2014 Starbuck's Meeting

On February 14, 2014, the Councilman met with Sergeant Smith at a Starbuck's on Arlington. They disagree on what was said at this meeting. The Councilman's version of what was said is in the 5/14/14 Statement. Sergeant Smith's version of what was said appears in the transcript of his April 15, 2014 interview.

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[F] Sgt. Smith Reports to Detective Melendrez

Sometime after the February 14, 2014 meeting, Sergeant Smith discussed that meeting with RPD Detective Aurelio Melendrez.

According to Detective Melendrez, he was told by Sergeant Smith that the Councilman had said that the jobs of City Manager Barber and maybe Chief Diaz were in jeopardy unless they took certain actions, and "you know, I think he said something like I have enough votes to get rid of Scott or Sergio, or I forget how that discussion went that, you know, things needed to be handled this way." [4/15/14 Aurelio Melendrez Trans., pp. 5:16-8:25.]

[G] Detective Melendrez Speaks with the Councilman

According to Detective Melendrez, he spoke with the Councilman later in March 2014. During this discussion, the Councilman didn't say anything about the jobs of City Manager Barber or Chief Diaz being in jeopardy. [4/15/14 Aurelio Melendrez Trans., pp. 9:1-10:21.]

Instead, according to Detective Melendrez, "The discussion [with the Councilman] was more about these are the things as I see them in my ward, and how I would like to see things get done. And the only comment that kind of jogged anything in my mind was that he did make the comment that initially there was some resistance or might have been the directive from our department head being Chief Diaz or Sergio, to be resistive to enforcing some kind of quality of life issues. And that was about as negative as it got during our one-on-one conversation." [4/15/14 Aurelio Melendrez Trans., p. 10:1-9.]

[H] Sgt. Smith Reports to City Manager & Chief Diaz

On March 5, 2014, Sergeant Smith attended a meeting with City Manager Barber and Chief Diaz. Sergeant Smith again gave his version of the February 14, 2014 meeting with the Councilman. [Ex. C.]

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On March 28, 2014, the complaint in Exhibit C was submitted.

[VI] DISCUSSION

[A] The Alleged Charter Violation

The City is a charter city. "The charter is the supreme law of a charter city, subject only to conflicting provisions in the federal and state constitutions and to conflicting provisions of preemptive state law." *Dailey v. City of San Diego*, 223 Cal.App.4th 237, 254 (2013); *see also Domar Electric, Inc. v. City of Los Angeles*, 9 Cal.4th 161, 170 (1994).

Section 300 of the Charter provides: "The municipal government established by this Charter shall be known as the 'Council-manager' form of government." Section 406 of the Charter provides: "All powers of the City shall be vested in the City Council except as otherwise provided in this Charter."

Section 407 of the Charter provides:

Neither the Mayor nor the City Council nor any of its members shall interfere with the execution by the City Manager of his/her powers and duties, or order, directly or indirectly, the appointment by the City Manager or by any the department heads in the administrative service of the City, of any person to an office or employment or their removal therefrom. Except for the purpose of inquiry, the Mayor, the City Council and its members shall deal with the administrative service of the City Manager solely through the City Manager and neither the Mayor nor the City Council nor any member thereof shall give orders to any subordinate of the City Manager, either publicly or privately.

///

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ATTORNEY-CLIENT COMMUNICATION**

By its terms, Section 407 does not prohibit all communications between Councilmembers and City employees.

Section 600 of the Charter provides in relevant part: "There shall be a City Manager who shall be the chief administrative officer the City." Section 601 provides in relevant part:

The City Manager shall be the head of the administrative branch of the City government. The City Manager shall be responsible to the City Council for the proper administration of all affairs of the City. [¶] All department heads and officers of the City, except elective officers and those department heads and officers the power of whose appointment is vested by this Charter in the City Council, shall serve at the pleasure of the City Manager .

...

Sections 2.08.010 and 2.08.020 of the Riverside Municipal Code: (a) establish various departments, including the Police Department; (b) provide that the Chief of Police is the head of the Police Department; and (c) further provide that the Police Department is part of the "administrative organizational structure of the City, and shall be under the control and direction of the City Manager, in accordance with the provisions of the City Charter." [Ex. U.]

If Sergeant Smith's version of the February 14, 2014 meeting is believed, then it tends to show that the Councilman made statements to a City employee (Sergeant Smith) casting doubt on the competence and/or job security of the City Manager and/or Chief Diaz. If believed, Sergeant Smith's version would tend to support a belief that the Councilman may have violated the non-interference provisions of Section 407 of the Charter. However, the Councilman disputes Sergeant Smith's version; there are no third party

**PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION**

witnesses to the meeting; and it appears that there is animosity between Sergeant Smith and the Councilman arising from the RPOA's supporting Valerie Hill in her unsuccessful campaign for the Ward 3 seat. Under these circumstances, it would require undue speculation to decide whose account of the February 14 meeting is accurate.

[B] The Alleged Brown Act Violation

Section 201 of the Charter requires the City Council to comply with the provisions of the Ralph M. Brown Act (the "Brown Act"), Cal. Govt. Code § 6250 et seq., which generally requires the City Council to make its decisions in public, regularly conducted meetings, subject to limited exceptions.

If Sergeant Smith's version of the February 14 meeting is believed, it tends to show that there may have been a secret or informal vote to terminate the City Manager and/or Chief Diaz. However, G|M's interviews of all Councilmembers indicates that no such decision was ever made. It strongly appears that there was no Brown Act violation.

[C] The Alleged Ethics Code Violation

Section 202 of the Charter requires the City to adopt a Code of Ethics. The City has adopted a Code of Ethics. [Ex. W.]

If Sergeant Smith's version of the February 14 meeting is believed, it tends to show a violation of the Ethics Code on the theory that: (a) the Councilman stated or implied that a decision had been made to terminate the City Manager or Chief Diaz; and (b) no such decision had been made, as the Councilman must have known.

It would be speculation to conclude that the Councilman committed any Ethics Code violation because it would be speculation to conclude that Sergeant Smith's version of the February 14 meeting is accurate.

**PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION**

[D] The Alleged Hostile Work Environment

The City has a Harasment Free Workplace Policy. [Ex. V.]

The hostile workplace environment allegations in this matter arise from Sergeant Smith's version of the February 14 meeting. If believed, Sergeant Smith's version tends to show that the Councilman engaged in conduct undermining the ability of the City Manager and/or Chief Diaz to do their jobs. Again, it would be speculation to accept Sergeant Smith's version of the February 14 meeting.

The meeting between Sergeant Smith and the Councilman and the conflicting allegations about what happened at that meeting gave the City Manager and Chief Diaz reasonable grounds for concern. The City has now investigated this matter. It appears that nobody other than the participants in the February 14 meeting will ever know with a certainty what happened at that meeting. It would require unreasonable speculation to conclude, however, that Sergeant Smith's version of what happened is any more accurate than the Councilman's version.

[VII] CONCLUSION

G|M reserves the right to supplement and amend this report in light of such other information as may be brought to G|M's attention.

DATED: June 2, 2014

Respectfully submitted,
GUMPORT | MASTAN

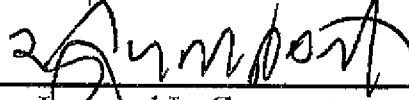
By: 
Leonard L. Gumport
Independent Counsel to the City of
Riverside

EXHIBIT A

EXHIBIT A

Dear Ms. Tuszynska:

In response to your offer to have Mr. Soubirous answer written questions, Mr. Gumpert has asked me to forward to you the following questions. Please have Mr. Soubirous prepare responses as soon as possible. If you have any questions, you can contact me. Thank you.

1) During 1/15/14 through 3/15/14, did Councilmember Soubirous cast a public or private vote on the City Council to terminate the employment of City Manager Scott Barber?

No. I do not know of any such vote taken.

2) During 1/15/14 through 3/15/14, did Councilmember Soubirous cast a public or private vote on the City Council to terminate the employment of Chief of Police Sergio Diaz?

No. I do not know of any such vote taken.

3) During 1/15/14 through 3/15/14, did Councilmember Soubirous discuss or mention terminating the employment of City Manager Scott Barber with any subordinate of Scott Barber, including any officers or employees of Riverside Police Department?

No. I did not discuss terminating his employment.

4) During 1/15/14 through 3/15/14, did Councilmember Soubirous discuss or mention terminating the employment of Chief of Police Sergio Diaz with any subordinate of Scott Barber, including any officers or employees of Riverside Police Department?

No. I did not discuss terminating his employment.

5.A) During February 2014 (including without limitation, on 2/14/14), did Councilmember Soubirous have any face-to-face discussions with Brian Smith of the RPD?

Yes. On Friday, February 14th, at 9:30 am, I met with Riverside Police Officers' Association (RPOA) President Brian Smith at the Starbucks on Arlington Avenue near Indiana Avenue in Riverside. No other face-to-face contact except for saying hello at the RPOA Awards Gala on April 5th and at the LEAC Awards dinner on April 24th.

EXHIBIT A

5.B) During any such February discussion(s) with Brian Smith, what if anything was said by Councilmember Soubirous about the employment status of City Manager Scott Barber?

No discussion regarding the employment status of City Manager Scott Barber. However, Mr. Smith brought up that his members were upset about the proposal made public by Councilmember Steve Adams regarding the use of "armed" security guards in City parks. I did, during the course of the conversation, suggest to Mr. Smith that he should meet with Mr. Barber to discuss his concerns regarding the use of security guards at City Parks. I followed up by brokering a meeting between the two, who did meet a few days later. I was not present during the meeting between the two.

5.C) During any such February discussion(s) with Brian Smith, what if anything was said by Councilmember Soubirous about the job performance of City Manager Scott Barber?

I did not discuss the job performance of City Manager Scott Barber.

5.D) During any such February discussion(s) with Brian Smith, what if anything was said by Councilmember Soubirous about whether any votes had been or would be taken to terminate the employment of City Manager Scott Barber?

I did not discuss votes being taken or contemplated by councilmembers regarding the employment of City Manager Scott Barber.

5.E) During any such February discussion(s) with Brian Smith, what if anything was said by Councilmember Soubirous about the employment status of Chief of Police Sergio Diaz?

Nothing was discussed about the employment status of Riverside Police Chief Sergio Diaz.

5.F) During any such February discussion(s) with Brian Smith, what if anything was said by Councilmember Soubirous about the job performance of Chief of Police Sergio Diaz?

Nothing was discussed about the job performance of Riverside Police Chief Sergio Diaz.

EXHIBIT A

5.G) During any such February discussion(s) with Brian Smith, what if anything was said by Councilmember Soubirous about whether any votes had been or would be taken to terminate the employment of Chief of Police Sergio Diaz?

There was no discussion about votes being taken or contemplated by councilmembers regarding the employment of Police Chief Sergio Diaz.

5.H) During any such February discussion(s) with Brian Smith, what if anything was said by Councilmember Soubirous about any vote to provide private guards in City parks or to pay overtime to the RPD?

My first contact with Riverside Police Officers' Association (RPOA) President Brian Smith was on February 13, 2014, at 9:51 am, to ask him if RPOA was in favor of extra patrols conducted on overtime to keep parks and other city site clear of vagrant homeless and criminal activity versus paying for private security guards. I had posed this same question to Police Chief Sergio Diaz at the City Council Meeting on February 11th. The Chief had given a fairly non-responsive answer to my same question. I explained to Mr. Smith, that the City Manager had suggested the private security guard idea as a possible component to the Livability Task Force Plan I had initiated/suggested. We subsequently met on February 13th. During the discussion Mr. Smith mentioned to me the RPOA members were upset with the suggested use of private security guards. They saw this as potential "union busting." Mr. Smith also mentioned that RPD officers were concerned that any enforcement action taken by them against panhandlers and "homeless" might result in action being taken against them in the form of lawsuits. Mr. Smith said that if the City were to require any enforcement action they would want the support of the City Attorney's office (a representative in the field) and County Mental Health personnel as well. Mr. Smith also expressed concern about the "mass feeds" of homeless by our homeless outreach programs, local churches and community groups. He stated the Council needed to correct this to include notifications to law enforcement and Code enforcement, as the feeds were bringing in a criminal element and were not being properly monitored. I suggested to Mr. Smith that he meet with City Manager Scott Barber to discuss his concerns about the proposed use of private security guards. I brokered a meeting by face-to-face with Mr. Barber (saw him at City

EXHIBIT A

Hall) and by phone with Mr. Smith. I followed up a few days later with Mr. Barber to ask if the two had met. Mr. Barber stated they had indeed met and he said "thank you."

The only other communication was on February 22nd, with Mr. Smith, to inform him the City had, by ordinance, required those feeding to groups of 50 or more to obtain a no-fee permit to do so prior to any feed in order to provide time to notify the police, code enforcement and any City clean-up crews.

When first contacted, Mr. Smith thanked me for reaching out to him regarding the matter (proposal to hire security guards and the possible overtime to augment the patrol officers) and stated I was the only councilmember who had done so.

EXHIBIT A

EXHIBIT B

EXHIBIT B

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CONFIDENTIAL AND PRIVILEGED

CITY OF RIVERSIDE
INTERNAL INVESTIGATION

CONFIDENTIAL INTERVIEW
OF
BRIAN SMITH

CONFIDENTIAL AND PRIVILEGED EXAMINATION OF
BRIAN SMITH, a witness herein, noticed by
Gumport Mastan, taken at 3901 Orange Street,
Riverside, California at 11:21 a.m., Tuesday,
April 15, 2014, before Deborah Troiano, CSR
7990, RPR, RMR.

Hutchings Number 502750

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Page 2

1 APPEARANCES OF COUNSEL:
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I N D E X

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2	WITNESS: BRIAN SMITH	
3	EXAMINATION BY:	PAGE
4	MR. GUMPORT	4
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10:48 1

BRIAN SMITH,

2

a witness herein, testifies as follows:

3

4

-EXAMINATION-

5

6

BY MR. GUMPORT:

7

Q. Please state your name.

8

A. Brian, B-r-i-a-n, Smith, S-m-i-t-h.

9

Q. Please state your position with the City of
10 Riverside.

11

A. I'm a sworn sergeant at the police department.

12

Q. And how long have you had that position?

13

A. I've been a sergeant since 2010. And I've been a
14 city employee since 1996, all with the police department. And

11:21 15

if I'm too fast, just give me a --

16

Q. Sergeant Smith, there is a court reporter seated
17 here. You are not under oath. But the court reporter is
18 taking down what you say so long as you are willing to remain
19 on the record. And at any time you want to go off the record
20 or not have your remarks transcribed, that's fine. Just raise
21 your hand. Now, who am I? I'm Leonard Gumport. I'm a
22 lawyer. I work at Gumport Mastan, employed by the City of
23 Riverside to investigate certain allegations arising from
24 alleged discussions between you and Councilmember Soubirous.
25 And you shouldn't infer one way or the other what

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11:22 1 my views are on anything because what my views will be depends
2 on the result of an investigation that right now I'm
3 conducting by interviewing people like you. And I believe
4 that later on I will be interviewing Councilmember Soubirous,
5 among other people. I have to emphasize I am not your lawyer.
6 You're here without a lawyer. If at any time you want to say
7 hey, gee, I wish I had a lawyer here, you can just stop and
8 say I'm getting a lawyer.

9 Also, because my client is the city and not you,
10 the city will determine whether to keep the transcript of what
11 you say on the record confidential and privileged or not.
12 It's the city's determination. They will get the transcript.
13 The reason for the transcript is so that what you say on the
14 record is what the city sees you said as opposed to relying on
11:23 15 some kind of summary that I prepare reflecting my impressions
16 of what it is I think you said.

17 A. Okay.

18 Q. You understand that?

19 A. Yes.

20 Q. If at any time you want to stop the interview,
21 you're entitled to do that.

22 A. Okay.

23 Q. Now, what I would like to do is focus on a meeting
24 that I understand you may have had with Councilmember
25 Soubirous sometime in February of 2014. My first question is

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11:23 1 was there such a meeting?

2 A. Yes.

3 Q. Tell me when the meeting happened as best you
4 recall.

5 A. Early in February, I think it was Valentine's Day.

6 Q. 2014?

7 A. 2014.

8 Q. How did the meeting come about?

9 A. The city was discussing security guards in the
10 park, and some other issues, community livability issues. And
11 I suppose I should give you a little background too. I'm the
12 president of the association. I've been -- the police
13 association. And I've been with the association for 16 years.
14 I've been the president for 3 years, and the vice president
11:24 15 for 8 years prior to the president's position. And as a
16 matter of routine, we meet with council people, city managers,
17 et cetera, just to get a feel for labor relations and what's
18 going on in their wards, what's going on with the city, and
19 how it affects my particular labor group.

20 We had a couple incidents in the parks between New
21 Year's Eve and the middle of January where officers -- in
22 January officers shot and killed a man who pulled a gun on
23 them in a city park. So it started this whole parks aren't
24 safe program. And some council folks were weighing in on it
25 and we, as an association, reached out to the council and

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11:25 1 said, you know, via text messages or e-mails, we would like to
2 sit down individually with you and meet and discuss this
3 because we don't think the path you're looking at is
4 necessarily one that we would embrace.

5 So Mike Soubirous actually sent me a text in late
6 part of January saying let's get together. I want to talk to
7 you about the security guards in the park thing. So my
8 response to him via text was pick a day. He gave me a couple
9 choices and ultimately we settled on February 14th,
10 Valentine's Day at the Starbucks on Arlington across from the
11 LA Fitness. So that was how that meeting was contrived was we
12 reached out, somewhere between the two, Mike said hey, let's
13 meet and discuss this parks issue along with some other
14 things. So we set up the meeting and we met.

11:26 15 Q. Did anyone else attend the meeting?

16 A. I had a board member scheduled to come with me but
17 he got tied up at home with his kid so he didn't make it.

18 Q. Who was that board member?

19 A. Dave Reideman, R-e-i-d-e-m-a-n.

20 Q. Now, apart from trivialities or pleasantries, what
21 was said by you and Councilmember Soubirous as best you recall
22 at this Valentine's Day meeting?

23 A. Like I said, apart from the, you know, it's the
24 standard hey, how are things, how's your wife, I know his wife
25 Linda pretty well, and back and forth. But it pretty quickly

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11:27 1 got into the meat and potatoes of what we were there for. And
2 Mike was pretty upfront about his position right from the
3 get-go. And it started along the lines of people aren't happy
4 with a lot of these livability issues. And he referred
5 specifically to aggressive panhandlers, transients, things
6 that would be considered by law enforcement low-grade needs
7 when you have a lack of staffing, but things that you put an
8 effort to, but there's other things to do that are in our
9 opinion more important.

10 So Mike was pretty adamant about the need for these
11 things to happen. These -- he told me four or five times I
12 get e-mails, I get texts, I get phone calls from constituents.
13 They're not happy. They're tired of seeing transients on the
14 offramps. They're tired of aggressive panhandlers. This
11:28 15 meeting with him and I was about an hour and 20 minutes so we
16 discussed a lot of things. And it was pretty apparent --
17 well, it wasn't pretty apparent, he made it specifically
18 apparent that the council were committed as a group, all 7 of
19 them, to make sure that things got fixed or maybe we don't
20 need the city manager around anymore.

21 And then he went a little further to say if Sergio
22 Diaz who is the chief of police doesn't stop going around
23 saying oh, we wish we could do more but there is just nothing
24 we can do. Sergio also says things along the lines of it's a
25 social problem. We are not the only ones that have it. We

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11:29 1 can't run people out of city parks because they're dirty or
2 they're pushing a shopping cart. He wanted to be fair with
3 people and that's his policy. But Mike even brought up that
4 maybe if Sergio doesn't change his ideals as it relates to
5 these community livability issues, maybe it's time to look for
6 a new chief of police.

7 Like I said, I've been doing this a long time. And
8 it was pretty clear to me that he was trying to set the tone.
9 This was very early on in the conversation. He was trying to
10 set the tone with me as to what I was to believe was the
11 overall feeling at City Hall with regards to Scott Barber, the
12 city manager, and Sergio Diaz, the chief of police.

13 Q. What precisely as best you recall did Councilmember
14 Mike Soubirous say about having 7 votes?

11:30 15 A. He said that it's a 7-0 vote to have Scott Barber
16 removed if he can't do the job, Scott being the city manager.
17 And then he -- I can't remember if he said there were 5 votes
18 but he made an inference to Sergio Diaz not being the chief of
19 police anymore.

20 Q. Well, let me ask you this: Suppose -- let me
21 rephrase the question. Is it likely that what Councilmember
22 Soubirous was trying to say to you was that well, if the city
23 manager is concluded as not being able to do his job, then 7
24 members will vote to remove him? And if so, what's wrong with
25 a councilmember saying that?

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11:31 1 A. Well, regardless of what was in his mind, you would
2 have to ask him. The impression I got was he was telling me
3 under no uncertain terms that the 7 council folks would remove
4 Scott Barber for not being effective for not doing his job,
5 for not following through what they as a group deemed to be
6 important. Where that's a problem is I am Scott Barber's
7 employee. At the end of the food chain is me. Scott Barber
8 is here. He's got to go through my chief. But I'm an
9 employee of the city. While he and I were meeting as laborer
10 and city government, you still have to know, and I know he
11 knows, he's astute enough to understand from his law
12 enforcement experience that I work for Scott Barber.

13 You basically just told me that my boss' job is in
14 jeopardy if he doesn't step and fetch and do what he's told to
11:32 15 do by the council. And it was even along the lines of these
16 community livability issues need to be rectified and Scott
17 needs to find a way to do it. I also took that -- or I also
18 understood what he meant or what he was trying to tell me
19 because he also, in this conversation early on, discussed the
20 need for me to get my members to embrace the need to deal with
21 these community issue problems, the transients, the
22 panhandlers. And it got -- I wouldn't say heated between him
23 and I, but I took offense to what he was doing. I know what
24 he was doing. He was trying to big league me, make me feel
25 like I'm a councilman and you're the president of the labor

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11:32 1 organization. You need to get your members to do what I want
2 to get done.

3 He even mentioned in that same conversation this is
4 a negotiations year for the RPOA. Going to be tough to
5 convince citizens that you need better wages when they're not
6 having their concerns dealt with, i.e. the panhandlers. So it
7 got a little heated at that point. Because I said I want to
8 know what the fuck you're talking about, Mike. Are you saying
9 my guys aren't doing the job? And he kind of backed off a
10 little. And then he brought up the fact that he has e-mails
11 and phone calls from constituents that say RPD cops are lazy
12 and they don't do what they're supposed to do. They kiss off
13 reports.

14 He went in pretty descriptive terms of an officer
11:33 15 having responded to a call, not done what he or she should
16 have done, and the constituent sent an e-mail to Mike and said
17 hey, I wasn't treated properly or I think they didn't do their
18 job, and I said -- I called bullshit. I said give me the
19 name, source it. Oh, I am not going to do that. Mike, you
20 have an obligation to forward those complaints to the watch
21 commander. I said as a laborer representative and as a
22 sergeant of the department and as a cop, if somebody is not
23 doing their job, there is a process for us to figure that out
24 and you need to refer them to Internal Affairs or the watch
25 commander and they need to file a complaint.

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11:34 1 Well, I am not doing this to get anybody in
2 trouble. That's not what I want to do. And I'm like then
3 quit talking to me about it. Because if you aren't going to
4 prove it, it didn't happen. I'm tired of hearing from people
5 in the community and from you that you're telling me RPD cops
6 are lazy. It's not going to work out for you. So like I
7 said, he wouldn't disclose who it was. We had a very frank
8 conversation about what I believe is his obligation as a
9 citizen in the city, as a council person, as a 30-year cop, if
10 people are complaining about our cops not doing their job,
11 there is a process. And it's not -- and I told him it's not
12 you keeping an e-mail string or voice messages or notes to
13 confront Sergio Diaz or me with later, there is a process and
14 you need to respect the process. Well, I thought I could
11:35 15 handle it and it's been taken care of. Well, then why are you
16 mentioning it? So it's a long way to go to get my -- how I
17 came to the conclusion of what his actual intent was. I know
18 how this plays out. It's a he-said, she-said, and he's going
19 to say I was having a conversation with a president of the
20 labor. I didn't see him as Scott's employee or as Sergio's
21 employee. Brian and I are friends. We have had conversations
22 in the past, those types of things. So I kind of --
23 Q. You say you know how this plays out. The question
24 I have for you is put aside speculating as to how things play
25 out, I'm interested in finding out what happened and then

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11:36 1 doing my report on it. So let's go to the thing, if any, that
2 you did after that meeting to report to anyone if you did on
3 what happened at that meeting.

4 A. Yeah. Well, prior to this meeting with Mike, I had
5 conversations with the assistant chief, Chris Vicino, of my
6 concern for Scott Barber and his relationship with the council
7 from other things that occurred months building up to this. I
8 had also heard through the grapevine for several months that
9 Mike Soubirous was running around town telling folks that RPD
10 cops are lazy, that the chief needs to do a bit better job.
11 So after this meeting, I sent the assistant chief a text
12 message and said we probably need to talk to Scott. And we
13 probably need to talk to Sergio about the meeting I just had
14 with Soubirous. And I can't remember what his response was.

11:37 15 But at some point we talked on the phone and I laid out to him
16 what happened.

17 Q. What's your best recollection as to when the phone
18 call happened? How long after the meeting with Councilmember
19 Soubirous did you talk to Chris Vicino?

20 A. I know I texted Chris within 30 minutes of leaving,
21 and it might have been something along the lines of you won't
22 believe this shit. We need to talk about what happened. And
23 I can't recall if he called me that day or I talked to him
24 within 24, 48 hours. I've had so many meetings over certain
25 things, I can't remember if it was in person or on the phone.

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11:38 1 But there was a frank discussion about what Soubirous said
2 regarding Sergio, and what he said about Scott. And my
3 recollection is I sent in a text to Vicino, Sergio is going to
4 scud when he finds out what Soubirous said about him because I
5 knew there was some friction anyway.

6 Q. What's your best recollection of what you told
7 Chris Vicino in these phone calls or phone call?

8 A. Almost verbatim what we talked about or what I
9 mentioned earlier. I told him that I met with Soubirous. He
10 tried to big league me by letting me know he was the
11 councilman and he was calling the shots, that it was a 7-0
12 vote to remove Scott if he didn't do what they deemed he
13 needed to do, and that maybe if Sergio doesn't come in line,
14 maybe it's time to see if Sergio Diaz can be replaced as chief
11:39 15 of police. So it was generalities in that manner. But I also
16 told Chris I am not too concerned about it. And the reason
17 why I wasn't too concerned about it was I felt like he was
18 just -- like I said, he was trying to big league me. He was
19 trying to set the context of this meeting. And there's more
20 to the story than just this meeting.

21 Q. Okay. Well, can I hear the more to the story?

22 A. Yes. I just didn't want -- I didn't know what
23 order you wanted to get it in. So going back to Mike's bid
24 for council.

25 Q. And Mike is Mike --

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11:40 1 A. Soubirous.

2 Q. Thank you.

3 A. I will refer to him as Soubirous. So Soubirous
4 approached the POA early on in his bid for Ward 3 and asked if
5 we would endorse him. And at the time, a retired sheriff,
6 undersheriff, Valerie Hill, was on the fence as to whether or
7 not she wanted to run. So at the time we told Mike, you know,
8 we are not going to do anything and put support behind anybody
9 until the filing period is closed because we don't know who
10 the candidates are going to be, which he took fine. Val
11 files.

12 We hold a PAC interview through the POA where we
13 interviewed both Mike and Valerie, and at the end, we decided
14 then because it was like a six-person race, we are not going
11:40 15 to endorse anyone until the run-off and we will see what
16 happened. Our hope at the time was that one of the two would
17 be eliminated so we wouldn't have to make a decision. But we
18 knew it was probably going to come down to a Val or Mike
19 decision, and we would cross the road when we got there. So
20 run-off comes, we re-interview at my direction because we
21 weren't going to just do this on a decision, let's bring them
22 in and re-interview them and see if anything's changed. They
23 came in, we re-interviewed. We picked Valerie Hill.

24 And Mike told us at the time after we picked
25 Valerie, I think you're picking the wrong horse. And she's

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11:41 1 not going to outwork me. She can outspend me but she's not
2 going to outwork me. And I'm going to be the Ward 3 council
3 person. Okay, Mike, good luck, you know. We put a lot of
4 money in Valerie Hill. So much money into Valerie Hill, and
5 Mike was so pissed off about it, he was printing our 990s out
6 and giving them to employees that he's friends with, and
7 asking them to confront board members with the amount of money
8 we spent on Valerie Hill to put her in office.

9 Now, 990s, anybody with any knowledge of how to
10 navigate the city's website will find my 990s. They will find
11 everybody's. And you know, 990s are the political
12 contributions. Well, he's printing them off and giving them
13 to members. And he's saying you need to ask the RPOA why they
14 spent so much money to back Val Hill. She was a loser. And I
11:42 15 told them they were going to lose. I never heard it directly
16 from Mike. But I've heard it from other folks that said it
17 was mentioned by him, you didn't back me, there's retribution
18 for that. Again, I chalked that up to somebody that had to
19 spend more time, more money, more effort to get a seat that he
20 wanted. And it's politics. It works out. I mean at the time
21 it didn't bother me that he said it. What pissed me off was
22 that he was meddling in my business by going to members and
23 poking them, saying, you know, you spent \$40,000 on a loser.
24 She lost by whatever number of votes it was but -- so now I
25 have some dissention in the ranks but we fixed it.

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11:43 1 So all that's building up to this February meeting
2 because there's the contact with my membership, which he's
3 entitled to do. I mean, he has friends, it's fine. There's
4 rumors floating around that he's going to places saying RPD
5 cops don't work very hard, they're lazy. They get paid too
6 well for what they don't do. And then there is this February
7 meeting to deal with the parks issue and the comment made
8 about Scott Barber and Sergio Diaz, and that as the leader of
9 labor, you need to convince your members that they need to
10 embrace this.

11 So in that same February meeting, we had a very
12 spirited discussion about commitment. And I told Mike
13 Soubirous, you need to be committed as a city to take care of
14 those problems. You can't just ask a law enforcement agency,
11:44 15 my members, to stop doing what they're doing to deal with
16 transients and panhandlers when we are down 65 policemen. And
17 I gave him the example, I said my kids want to go to
18 Disneyland every week but we can't afford to go. So some
19 nights it's a Redbox night. The city needs to take the same
20 approach. You cut 65 positions, you're not filling them.
21 Some things are going to fall through the cracks.

22 And unfortunately, Mike, transients and panhandlers
23 are not up there with gang members, drug dealers and neighbor
24 problems that turn into violent confrontations. And that's
25 where he reiterated you need to understand, Brian, how the

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11:45 1 council's embraced this. It's 7-0. We want this done. It's
2 going to need to get done. And I said well, you're going to
3 need to find a way to pay for it because I don't see how we
4 are going to get street cops to stop doing what they're doing
5 in the gang neighborhoods to go deal with your panhandlers in
6 the Target parking lot. And that's when he talked about well,
7 there's a lot of things in the works and we are going to be
8 discussing some funding options and so on and so forth.

9 So we kind of left this community livability issue
10 stuff on the side burner. We talked a little bit more about
11 what was going on in his ward and how -- what can we do, how
12 can we help from the POA side. And by that, I mean we stay
13 pretty heavily involved in community activities. And we try
14 to focus on each ward. And right or wrong, Mike's ward is one
11:45 15 that's pretty affluent. We don't spend a lot of time in there
16 doing community projects. I don't hand out backpacks in Ward
17 3. I do it at Patterson Park, Bryant Park in Arlanza, Casa
18 Blanca Community Center.

19 So if we can connect with the councilperson and
20 help them with a pet project as a labor organization, it's
21 good for us. It's good that the community sees cops don't
22 just take people to jail, they actually spend time and effort
23 in doing things that are good for the community like our
24 backpack program or the vets program that we have and things
25 of that nature. So we had a little conversation about that.

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11:46 1 And like I said, that was about the end of it. We wrapped it
2 up after that.

3 Q. So what would you say to the argument, well,
4 Sergeant Smith's version of this conversation, that's just the
5 result of ill will because they didn't back me in my
6 successful campaign, and now Sergeant Smith is saying I had
7 this inappropriate conversation with him?

8 A. I would say that that would be a reasonable
9 explanation. However, several weeks following the
10 conversation with Soubirous at Starbucks, I had a conversation
11 in my office at the RPOA office with Alicia Robinson, who is a
12 reporter for the Press Enterprise. And Alicia was there to
13 talk about the parks project, and I want to say this was --
14 give me a second. I will look at my calendar. I think I may
11:47 15 have the exact date. I thought I had it in my calendar but I
16 don't. My best recollection of when that occurred was the
17 14th of March, so maybe a month later.

18 Q. Okay.

19 A. Alicia had come to our office to talk to my office
20 staff and just find out community stuff. Their business had
21 recently moved into the same complex. And I had happened to
22 walk in. And she's like oh, since you're here, I have some
23 questions for you. So we went in and sat down. She wanted to
24 talk about the parks project, get my opinion as to whether or
25 not, and of course this is before the city decided to break

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11:48 1 loose with overtime. It was Scott Barber, the city manager,
2 was still on this going out for RFPs to security companies to
3 get an idea what it might cost to have security guards do the
4 parks. So I gave her my opinion of security guards in the
5 park, which it shouldn't happen. They should find a way to
6 fund cops to do it. As she was wrapping up that conversation,
7 and I believe this is recorded with her because she asked me
8 if she could record it. I don't know if she turned the
9 recorder off after this conversation.

10 But she asked me, she said I've heard some 7th
11 floor rumors, and maybe you want to weigh in on them. And I
12 said well, what have you heard. So she brought it up.
13 Initially she said that Scott Barber's job is in jeopardy, and
14 I laughed and said, you know, I've heard the same thing. I
11:49 15 said but I don't know, I think Scott's done a great job for
16 the city considering the bucket of shit he was left with Brad
17 and Tom and half the council that's there now left him with
18 it. I think Scott's done a pretty good job all things
19 considered. And she said so you don't think that Scott's job
20 is in jeopardy, and I said, well, I don't think that they can
21 point to one thing that would make Scott Barber's job be in
22 jeopardy. But I've heard that they're examining his
23 performance. And I asked her what she had heard. And she
24 said, well, it's a source on the 7th floor, okay.

25 So what else do you have? And she said that Sergio

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11:50 1 Diaz's job is in jeopardy. And I laughed. And I said to her
2 Sergio Diaz is a deity in this city. Other than the elected
3 sheriff of Riverside County, you are not going to remove
4 Sergio Diaz without an uprising from the city and the citizens
5 here and the employees that work for him. They may think his
6 job is in jeopardy, but Sergio has done a really good job of
7 being the chief here. And I also told Mike Soubirous that on
8 the 14th of February when he brought up the chief thing about
9 him, if he doesn't change his tune, maybe it's time to find
10 another chief. I told him the exact same thing, that other
11 than the elected sheriff, Sergio Diaz is virtually -- you're
12 not going to be able to remove him. You have to have cause to
13 get rid of him. Because the citizens support him, the
14 businesses support him, the labor supports him.

11:51 15 So once Alicia and I finished and she left, I
16 called -- I sent Chris Vicino another text, and I just had an
17 interesting conversation with Alicia Robinson. Call me. He
18 did. And I laid out to him hey, the Scott Barber thing came
19 up again, the Sergio thing came up again, where are you at on
20 talking to Sergio? Mind you, like we've said, I had several
21 conversations with him between February 14th and now March
22 14th, and the decision that Chris and I had made was Sergio
23 will lose his mind if he knows Soubirous is running around
24 saying these things to one, his employee, but two, just saying
25 them in general, questioning Sergio's fitness for the job.

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11:52 1 So that Friday we talked on the 14th of March, and
2 I said we got to come up with a creative way to bring this up
3 to Sergio. They were leaving for the chiefs conference in
4 Northern California, and I was heading to San Diego for a
5 conference the following week. So we texted back and forth
6 during that week and had actually talked on the phone. And I
7 had said, reminded him, hey, we got to -- I think Sergio needs
8 to know about this. And I said I am going to tell Scott
9 Barber as well. Because this is more than just in my opinion
10 Soubirous trying to big league me at Starbucks, now I got
11 Alicia Robinson telling me that her source on the 7th floor
12 says Scott Barber's job is in jeopardy and so is Sergio
13 Diaz's.

14 So ultimately everybody comes back from conferences
11:53 15 and I arranged to meet with Scott and Sergio, and basically
16 lay out for them the same thing I'm laying out for you, my
17 contact with Soubirous, how I inferred what he was telling me,
18 and the contact I had with Alicia Robinson, which like I told
19 them had it just been Mike Soubirous, that's one thing. I
20 would chalk that up to him trying to set the tone or let me
21 know that hey, I'm a councilperson and I might not be the guy
22 you wanted but I'm here. Throwing Alicia and her not knowing
23 that Mike and I had that conversation or anything about the
24 dynamics between Mike and the RPOA, that's when I said to
25 myself, I told Chris, Sergio and Scott this is a bigger issue

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11:54 1 than just somebody trying to set the tone with a POA
2 president.

3 This has gotten out. This is a discussion. And
4 whether it's 7-0 to remove you, Scott, or 5-2 to remove you,
5 Sergio, somebody wants me to believe or wants you to believe
6 that that's the case. So on some level you could -- there are
7 folks on the council that are manipulative enough to tell a
8 labor representative something knowing or believing that it
9 will get back to the source that they want it to get to. I
10 don't know that Mike is that person, Soubirous is that person.
11 But I can't be sure. I haven't had that much interaction with
12 him yet to know if this was a planned discussion for him to
13 have with me hoping that it would get back to the sources to
14 get him the result he wanted, or if it was just he thinking

11:54 15 I'm going to have a conversation with him, and whatever
16 happens happens. I don't know for sure.

17 Q. Is there a reason why there would be friction
18 between the city manager, Scott Barber and Councilmember
19 Soubirous?

20 A. In my mind or --

21 Q. Yes.

22 A. Is there anything I could point to?

23 Q. Is there anything you could point to and in your
24 mind both?

25 A. Well, I think that Mike Soubirous ran for an

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11:55 1 elected position on a platform of getting things done, of
2 dealing with his constituents, and these little nickel and
3 dime problems, the panhandlers, Target, the guy on the offramp
4 with the sign, transients in general, because that's all he
5 bitched about going into this thing. I think the friction
6 between the two, and between Scott and probably a majority of
7 the council is Scott's given some autonomy as the city manager
8 and he exercised it or was exercising it, and I don't think
9 they liked the position that put them in as council. Scott's
10 decision, in my opinion, to examine using security guards in
11 the parks was a quick fix to something that another
12 councilperson pulled the pin on at another community meeting
13 that he probably shouldn't have been talking about that
14 occurred earlier that day.

11:56 15 So Steve Adams goes to a community meeting at La
16 Sierra Park. The comments come up about the safety of the
17 park and that was because in La Sierra Park, a transient had
18 been stabbed and killed. And then December 31st, we go to ped
19 check a guy in Arlington Park and we wind up shooting him
20 because he pulls out a gun and shoots at him. So Steve Adams
21 at the time basically takes these questions from the community
22 back and forth, and he steps up and says hey, even these guys
23 don't know about this yet. And that was a sergeant from the
24 NPC, the Neighborhood Policing Center, and a couple of his POP
25 officers were there. He said but we are taking some strides

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11:57 1 to put security guards in the park. That information hadn't
2 even been discussed with all 7 members of the council.

3 That was Steve as the mayor pro-tem being
4 privileged to attend a meeting where some ideas were bounced
5 around. And he goes and pulls the pin on it, and now this
6 thing has boiled over because there present is Brian Rocos, a
7 reporter from the Press Enterprise who can't wait to blog
8 about it, hey, breaking news, Councilman Adams says security
9 guards are going into the park. It stirred up a hornet's nest
10 with my membership. I can't imagine what a mess it made for
11 his six brethren over there that are councilpersons because
12 they're getting phone calls or they're reading about a plan
13 that they're supposed to start that they have no -- they
14 haven't even been talked to about.

11:58 15 Q. About when was this statement made by Adams?

16 A. It was probably early on in January because it was
17 fresh after the OIS, officer involved shooting, in December.
18 And it was before the meeting with Soubirous and I. And I
19 want to say -- if you did a little research, I bet you could
20 find it on the city calendar in January because those things
21 are calendared for the public to attend and everything else.
22 So it would be like a city event.

23 Q. Do you believe that Councilmember Soubirous
24 supported the Adams' statement that there would be security
25 guards used?

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11:59 1 A. I think Mike Soubirous' initial intent was to get
2 cops to do it. I think he genuinely recognized the
3 shortcomings of security guards versus putting police officers
4 in there to do that. So he and I never had a direct
5 conversation as to whether he supported the guards or not.
6 But in our conversation on the 14th, he talked about I want
7 cops doing this so it can be effective.

8 Q. Do you know -- do you think Alicia Robinson would
9 give me an interview? I tell you I don't think she would but
10 I don't know.

11 A. I don't know that she would but I mean it doesn't
12 hurt to ask her.

13 Q. Well, let me ask you this, do you have a
14 relationship with Alicia Robinson such that you would be
12:00 15 comfortable asking her for any tape recording that she had
16 made of her discussion with anybody?

17 A. Discussions with anybody or discussions with me?

18 Q. With you.

19 A. Oh, I don't have a problem asking her for that
20 either.

21 Q. You know, why don't we just limit it to that. I
22 will tell you the investigation itself, even though I
23 understand there may have been some publicity or something
24 like that, it is confidential. So if you would make the
25 request though without disclosing the existence of the

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12:00 1 investigation, simply say you would like -- you're wondering
2 if you could have a copy of the tape recording she made of her
3 discussion with you on the subject.

4 A. Right.

5 Q. Because it's important for me to get as much
6 information as I can as to precisely what was said at various
7 times.

8 A. Yeah. I don't have a problem asking for that. As
9 soon as we get done, I will ask her.

10 Q. Have you had any discussions with Councilmember
11 Soubirous since your face-to-face meeting with him on or about
12 Valentine's Day?

13 A. We've not had any face-to-face conversations beyond
14 a passing in a hey, Mike, hey, Brian, we haven't discussed
12:01 15 this parks thing. He did send me a text message about two or
16 three weeks ago regarding the council vote to spend overtime
17 on putting officers in the park. I didn't save it but it was
18 along the lines of we approved the monies that we discussed
19 about getting the resources to deal with these livability
20 issues. This is what I wanted to do the whole time. And that
21 was -- I didn't even respond to it.

22 Q. At the approximately Valentine's Day meeting
23 between you and Councilmember Soubirous, do you remember
24 having a discussion about Arlanza, A-r-l-a-n-z-a?

25 A. Yes. We had a discussion about Arlanza.

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12:02 1 Q. What do you remember was said about that subject?

2 A. I think it was me pointing out to him that cops are
3 going to spend more time in a neighborhood like Arlanza than
4 they are in Hawarden Hills and Whitegates where he lives and
5 his constituents are because of the gang problems and the
6 crime and the rundown, depressed socioeconomical folks that
7 live there. He, during our conversation, he brought up the
8 fact that I walked the ward every day campaigning for 16 weeks
9 minus three days, his wife's birthday, one day it rained and
10 one day was something else but -- and then he said, you know
11 how many police cars I saw in those 16, 18 weeks, Brian. I
12 said no idea, Mike. He said one, one car, in that whole time.

13 And I said well, if your ward was Arlanza, you
14 probably would have seen twenty a day. I mean realistically
12:03 15 the reason most of our guys end up in your neighborhood, it's
16 because they're taking a past crime report. We send resources
17 where they're needed. And I drew the parallel to him and the
18 Highway Patrol. And I said you don't send Chippies out on a
19 deserted roadway to run radar if there is no cars going there.
20 You send them where they need to be. And we got a laugh out
21 of it and so on and so forth. But it might have been me
22 bringing up the Arlanza thing as the parallel.

23 Q. Do you recall whether Mike Soubierous stated at the
24 Valentine's Day meeting that it was unacceptable to do what
25 you've just described concerning sending more black and whites

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12:04 1 to Arlanza and that he needed equal representation in each
2 ward?

3 A. Yeah. I don't know if he used the word
4 unacceptable but he did draw the parallel, well, the taxpayers
5 deserve representation, equal representation. They should
6 have the same amount of officers. And I laughed at him and
7 said, you know, you got to understand how things are. We are
8 down 65 positions. And I even told him on day shift on a
9 Saturday, we put 16 policemen out in a city that's a hundred
10 square miles and 400,000 people. They're going to go to where
11 the problems are. We are reactive in most parts and not as
12 proactive as we would like to be.

13 Q. Did Mike Soubirous also say to you at the
14 Valentine's Day meeting that he had 7 votes to fire the city
12:05 15 manager if he doesn't deliver on the council's direction to
16 address the livability issues in this city, and that the chief
17 of police would be fired next?

18 A. The exact wording of it, I am not sure. But what I
19 recall was it's a 7-0 vote to get this done. And if the city
20 manager can't make it happen, then we are going to find a new
21 one. And then he immediately followed that up with the
22 council is not happy with Sergio Diaz and his -- we wish there
23 was something we could do, we can't do more, the city created
24 this problem. If he doesn't find a way to do this, then maybe
25 we need a new chief police.

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12:06 1 Q. When you subsequently talked to Alicia Robinson in
2 March of 2014 at the --

3 A. RPOA office.

4 Q. -- at the RPOA office, did she tell you that a
5 source on the 7th floor had told her that Scott Barber's job
6 was in jeopardy?

7 A. She told me that a source on the 7th floor wasn't
8 happy with the way Scott Barber, the city manager, is working,
9 and that it might be time to replace him.

10 Q. Did she say that a source had told her that there
11 were 7 votes to remove Scott Barber?

12 A. Man, I can't remember if she said 7 votes to remove
13 him or not. But it was his job was in jeopardy and they
14 weren't happy with him.

12:07 15 Q. Did she say whether a source on the 7th floor had
16 told her that there were 7 votes to remove Sergio Diaz?

17 A. No. She just said that she heard rumor that Sergio
18 Diaz's job might be in jeopardy too.

19 Q. And you think that she may have tape-recorded
20 a part of this conversation?

21 A. Yes. I know she tape-recorded my response about
22 security guards in the park. And then she had her iPad. She
23 said do you mind if I record this, and I said no, go ahead.
24 And she added at the end of it, can I ask you something off
25 the record. And I laughed at it. And I said there's never

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12:08 1 been anything that I have told you off the record that hasn't
2 shown up on the record 6 weeks after we had the conversation.
3 I didn't see her manually turn the iPad off. And she may have
4 recorded it because I think she would be okay to do so if we
5 said hey, it's off the record. But she may have a copy of it.
6 But that's when we had the conversation about the rumor that
7 she had heard and her source on the 7th floor, City Hall
8 saying that, you know, Scott Barber and possibly Sergio Diaz's
9 job was in jeopardy.

10 Q. Do you recall Councilmember Soubirous saying to you
11 at the Valentine's Day meeting that all the councilmembers
12 were disappointed with the city's response to the homeless
13 issue and that Soubirous had 7 votes on the council to get rid
14 of the city manager and the chief of police?

12:09 15 A. Like I said earlier, my recollection of it was it's
16 a 7-0 vote, the council's committed to get these things done.
17 And if Scott Barber can't do it, then it's time for a new city
18 manager, followed up very shortly with the council is not
19 happy with Sergio Diaz, the chief's response to these things,
20 and they're tired of hearing how there is nothing we can do.
21 And if he can't get it done, then maybe it's time to find a
22 new chief of police.

23 Q. And by get these things done, you're referring to
24 livability issues, panhandlers and --

25 A. Transients.

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12:10 1 Q. -- transients, people like that?

2 A. Yes.

3 Q. I'm at the very beginning of the investigation.

4 You're an important witness. Are there things I haven't asked
5 you about that I should have asked you about? Do you want to
6 go off the record?

7 A. Sure.

8 MR. GUMPORT: Off the record.

9 (A recess was taken.)

10 BY MR. GUMPORT:

11 Q. Back on the record. Sergeant Smith, I've covered
12 certain conversations you've had. I'm sure you've had other
13 conversations about your meeting with Councilmember Soubirous
14 on Valentine's Day in 2014. And I propose not to go through
12:13 15 other discussions you've had describing secondhand that
16 conversation because my assumption is all those descriptions
17 would simply be repetitions of what you've already told me was
18 said on the Valentine's Day meeting with Councilmember
19 Soubirous. Would that be an accurate assumption on my part?

20 A. Yes. And I would go further to tell you who I had
21 those conversations with, would probably be easier for you.

22 Q. Go ahead. Just tell me.

23 A. So after talking to Mike Soubirous on the 14th of
24 February, I had a conversation with the Assistant Chief Chris
25 Vicino, several conversations with him. I had a conversation

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12:14 1 with my vice president, Aurelio Melendrez, about it. I spoke
2 to Scott Barber, the city manager, and Sergio Diaz
3 specifically about that information that was exchanged on
4 February 14th. And that was done between February 14th to the
5 tail end of March. I have not discussed it with any other
6 councilperson. I have not discussed it with the assistant
7 city manager or anyone else of elected position or authority
8 within the city.

9 It's been very tightly kept on our side. And then
10 obviously Alicia Robinson, I answered her questions. And it
11 was more of me getting a feeling for the information she had
12 without sharing the conversations I had about Scott and
13 Sergio's job. To be clear, I never told her that Mike
14 Soubrious and I had a conversation because I didn't want her
12:15 15 to make a story out of something or get confirmation to create
16 a story. It was her asking me questions about Scott Barber's
17 effectiveness as a city manager, and is his job in jeopardy
18 and as well as Sergio's. And my response was I don't see
19 anything that would cause them to lose their jobs or anything
20 like that. So I never disclosed to her that hey, funny you
21 should ask.

22 Q. And on that note, I would say I am retracting my
23 request that you ask Alicia Robinson for anything. I don't
24 see anything good coming out of that conversation and I don't
25 see that she would ever give you the tape recording. And it's

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12:16 1 more important that this investigation to the extent it can be
2 kept confidential be kept confidential. Understood?

3 A. Understood.

4 Q. Okay. Sergeant Smith, thank you very much for your
5 time. I can't tell you this is the last time you will see me
6 because sometimes these investigations circle back and there
7 are requests for additional information and further
8 interviews. But I want to thank you very much for your time.

9 A. All right.

10 MR. GUMPORT: That concludes this interview. Off
11 the record.

12 (Resumed interview at 2:58 p.m.)

13 BY MR. GUMPORT:

14 Q. Let's go on the record. And this will be a part of
12:16 15 the transcript of the interview that we did earlier today.
16 And I have Sergeant Smith on my phone, and I had a follow-up
17 question, and he has courteously called me on my phone and
18 agreed to have some additional discussion transcribed,
19 correct?

20 A. That's correct, sir.

21 Q. Okay.

22 A. Is the volume good? Are you guys good?

23 Q. The volume is fine. And same warnings apply. You
24 don't have to answer anything. We can go off the record and
25 we will stop transcribing any time you want it not

BRIAN SMITH - 4/15/2014
CONFIDENTIAL AND PRIVILEGED TRANSCRIPT

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12:16 1 transcribed, all right?

2 A. Okay. Sir.

3 Q. And let me repeat I am not your lawyer. I'm the
4 city's lawyer. Okay. Here we go. Going back to the
5 Valentine's Day meeting in 2014 when you met with
6 Councilmember Soubirous, I have questions as to the following:
7 Did Councilmember Soubirous say that he had 5 votes to not
8 bring the private security matter to the city parks, and
9 instead, give overtime to staff at the Riverside Police
10 Department, but that he needed the Riverside Police Department
11 staff to become more aggressive with panhandlers?

12 A. Excuse me. He did say that there were 5
13 councilpersons in support of staffing it with policemen. I
14 don't recall if overtime ever came into it. We had -- we did
12:16 15 have a conversation about it would be something that you would
16 need to do on overtime, but he did say that there were 5
17 council people in support of using police officers. And he
18 did say that he would need, you know, an aggressive
19 enforcement profile.

20 Q. Am I right that his saying that he needed 5 votes
21 or that he had 5 votes on not bringing private security to the
22 city parks, that's not something that you regard as
23 inappropriate, is it?

24 A. Well, no. I wouldn't regard it as inappropriate.
25 What I took that as -- I took it twofold. The first was that

BRIAN SMITH - 4/15/2014
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12:16 1 he's letting me know that he's not by himself, that obviously
2 he's discussed this. Now, whether it's a Brown Act violation
3 because they're discussing things as council people outside of
4 closed session with more than two of them at a time, I don't
5 know the circumstances of where that came up. But I took him
6 telling me that there were 5 votes as a sign of hey, I have
7 support, we have like-minded folks that want cops doing this
8 and not security guards.

9 Q. And did you communicate that information to Chief
10 Diaz when you subsequently met with him?

11 A. You know, I think I may have brought up the fact
12 that he said that there was council support, that there were 5
13 folks that wanted cops to do it, and the aggressive
14 enforcement profile. But I don't know what point in the
12:16 15 conversation it was with Sergio and Scott. And I think if my
16 memory serves me right, I think that piqued the city manager's
17 interest because -- he didn't discuss it with me, but I saw a
18 noticeable facial expression from him, and I kind of took from
19 that that maybe that was information that was either like
20 closed session or something that hadn't really been discussed
21 outside of the confidentiality of the council with their
22 normal meeting staff. So you know, Scott Barber wouldn't -- I
23 don't believe he would put himself in a position to compromise
24 his integrity when it comes to a closed session item or
25 discussion item or something like along that line.

BRIAN SMITH - 4/15/2014
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12:16 1 Q. Did you ever communicate with Councilmember Davis
2 about your Valentine's Day conversation with Councilmember
3 Soubirous?

4 A. No. I never discussed with any council person the
5 content of the conversation with Councilman Soubirous and
6 myself. Councilman Davis did reach out to me at some point
7 after the February 14th incident. And I think it was, if
8 memory serves me correct, regarding the RPAA, Riverside Police
9 Administrators Association's labor negotiations. I was
10 actually watching the council session during that item, and I
11 had watched Councilman Davis go on a 10-minute dissertation
12 about raises and money, et cetera, et cetera. And having
13 watched it, I sent him a text message saying that it was nice
14 to see him, a councilperson, step up, him specifically, and
12:16 15 that we had some issues with this security guards in the park
16 that hadn't been put to bed yet. And his response to me
17 saying that to him was we are looking at some things, I think
18 we are going to be able to resolve this with police officers
19 and not security guards. So it wasn't him reaching out to me
20 that I recall. It was me sending something to him unrelated,
21 and then the security guard in the park thing came up during
22 that text conversation. But it wasn't a phone call or a
23 face-to-face meeting.

24 Q. How was the security guard in the park situation
25 ultimately resolved, if at all?

BRIAN SMITH - 4/15/2014
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12:16 1 A. We are not using security guards now and they
2 staffed this community livability team with officers on
3 overtime.

4 Q. And that was pursuant to a council vote?

5 A. It's my understanding that the council did vote
6 because they took money from the reserves to fund the overtime
7 assignment. So the council, after report from Chief Diaz and
8 Chief Vicino, which they gave them, and told them in order to
9 do what you are asking us to do, it would require this many
10 people at this large of an expense. And council ultimately
11 decided to buy into the program. And they approved the
12 chief's plan by staffing the community livability issues team
13 with overtime positions.

14 Q. Okay. Sergeant Smith, that answers the additional
12:16 15 questions I have for you.

16 A. Okay. Sir.

17 Q. Thank you very much. And that concludes this
18 second session today of this interview of Sergeant Smith.
19 Thank you very much.

20 A. All right, sir.

21 MR. GUMPORT: Off the record.

22 (Proceeding concluded at 12:16 p.m.)

23 ***

24

25

BRIAN SMITH - 4/15/2014
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1 I declare under penalty of perjury under the laws
2 of the State of California that the foregoing is true and
3 correct.

4 Executed at _____, California on
5 _____.

6
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10 _____
BRIAN SMITH
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BRIAN SMITH - 4/15/2014
CONFIDENTIAL AND PRIVILEGED TRANSCRIPT

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1 STATE OF CALIFORNIA) ss

2

3 I, Deborah Troiano, CSR 7990, RPR, RMR, do hereby
4 declare:

5

6 That the above foregoing _____

7 () pages contain a full, true and correct

8 transcription of the proceedings.

9

10 I further declare that I have no interest in the
11 event of the action.

12

13 I declare under penalty of perjury under the laws
14 of the State of California that the foregoing is true and
15 correct.

16

17 WITNESS my hand this _____ day of

18 _____,

19

20 _____

21 Deborah Troiano, CSR 7990, RPR, RMR

22

23

24

25

EXHIBIT C

EXHIBIT C

**CITY OF RIVERSIDE
MEMORANDUM**

TO: Mayor Rusty Bailey
Mayor Pro-Tem Steve Adams

FROM: Scott C. Barber, City Manager

CC: City Attorney Greg Priamos

RE: Hostile Work Environment, Violations of the City Charter

Honorable Mayor and Mayor Pro-Tem:

On Wednesday, March 5, 2014, after my Executive Leadership Team meeting, Chief Sergio Diaz (hereinafter referred to as Sergio) and I met with RPOA President Brian Smith (hereinafter referred to as Brian) at Moline's Coffee to discuss a conversation that Brian had with Councilmember Mike Soupirous (hereinafter referred to as Mike). Brian stated that Mike had been trying for a while to meet with him, and that they finally had a date about 7 to 10 days ago when they met at Starbucks on Arlington. Brian said that usually he brings someone else along with him to these types of meetings, however, Aurelio Melendrez was unable to join him due to a family illness. Brian stated that Mike tried to "big league" him, by stating that he had five votes to not bring the private security to the City Parks and to instead give overtime to staff at RPD, but that he needed RPD staff to become more aggressive with vagabonders. Mike went on to state that he walked his ward during the campaign for 26 weeks, missing only a few days in the entire time and that during that time he had only seen one RPD unit. Brian stated that if he had been walking in Anzanza he probably would have seen more units, because with the size of our force that we have, we allocate resources based on need. Mike stated it was unacceptable to do that, and that he needed equal representation in each ward. Mike also told Brian that he has seven votes to fire the City Manager if he doesn't deliver on the Council's direction to address the livability issues in the city, and that the Chief of Police would be fired next.

Brian then stated that Alicia Robinson, Riverside beat reporter for the Press Enterprise, stopped by his office a few days after the meeting with Mike and asked him, off the record at her request, if he knew anything about there being seven votes to fire the City Manager and the Police Chief.

After the meeting with Brian, Sergio and I briefed both of you, with Greg Priamos present, and expressed to you the seriousness of this situation, requesting that it be investigated. I stated that it was my belief that if these statements were verified and correct, that this was clearly a violation of Riverside City Charter Section 407 (Interference in Administrative Service) making it

EXHIBIT C

difficult for me to effectively run our city government, and that it was also damaging to the command structure of the sworn Police Department. Also, actions such as this create a hostile work environment wherein I feel that if I don't follow the direction of Mike, given to me third-hand through a subordinate of mine, that 7 council members will be terminating my employment.

My thanks to both of you for your willingness to investigate this matter that is creating an unacceptable work environment for me and my subordinate employees.

Scott C. Barber 3/28/14
Scott C. Barber
City Manager
City of Riverside

EXHIBIT C

Mitchell, Maureen

From: Diaz, Sergio
Sent: Friday, March 28, 2014 5:38 PM
To: Barber, Scott; Priamos, Greg
Cc: Diaz, Sergio
Subject: Fwd: CONFIDENTIAL: ATTORNEY-CLIENT PROTECTED INFORMATION

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Subject: CONFIDENTIAL: ATTORNEY-CLIENT PROTECTED INFORMATION

Mr. Barber:

On approximately Monday, March 1, 2014, I was informed by Assistant Chief Chris Vicino that during the week prior, he had a conversation with Sergeant Brian Smith, the president of the Riverside Police Officers' Association. According to Sergeant Smith, on some date prior to that, Smith had a conversation with Council Member Mike Soubirous. During that meeting Mr. Soubirous made certain inappropriate statements to Sergeant Smith regarding the management of the Riverside Police Department and about the city manager, himself.

On approximately March 1, 2014, I notified you of those remarks and you asked that I set up a personal meeting to include you, me and Sergeant Smith. I contacted Sergeant Smith and we set up a meeting for Wednesday, March 3, 2014.

On March 3, 2013 at approximately 10:00 a.m., I met with you and Sergeant Smith at Molino's Cafe on Mission Inn Avenue. At that time, Sergeant Smith reported that on approximately February 14, 2014, he was contacted by Mr. Soubirous. Mr. Soubirous requested to meet with Sergeant Smith. A meeting occurred at the Starbucks coffee shop at Arlington Avenue, west of the 91 Freeway. The only participants were Sergeant Smith and Mr. Soubirous.

According to Sergeant Smith, during that meeting, Mr. Soubirous expressed several concerns regarding the Riverside Police Department. He mentioned among other things that during his campaign for the City Council Ward 3 seat, he walked the ward for many days and never once saw a marked police unit. He expressed the belief that Ward 3 was being short-changed on police presence. He also expressed displeasure at the City's efforts regarding enforcement targeting "homeless" individuals. Mr. Soubirous expressed the belief that those efforts were inadequate because of policies of the City Manager and the Chief of Police. Mr. Soubirous told Sergeant Smith that all the council members were disappointed with the City's response to the homeless issue and that he (Soubirous) had seven votes on the Council to get rid of the City Manager and the Chief of Police.

Upon hearing Sergeant Smith's report, I became concerned about several issues. If Sergeant Smith is telling the truth, the following questions arise:

- (1) If Council Member Soubirous, in fact, believes that a majority of the Council has decided on a personnel issue involving the City Manager, when and how was that consensus reached? I have no knowledge that the termination of the City Manager has been discussed in either open or closed session of the City Council. Does this indicate a Brown Act violation by the Riverside City Council?

- (2) Mr. Soubirous indicated that he believed the termination of the Chief of Police is an action under the purview of the City Council. That is contrary to the Charter of the City of Riverside which makes the Chief of Police an at-will employee who serves at the pleasure of the City Manager.
- (3) If Mr. Soubirous's statements to Sergeant Smith were not factual and in fact, there is no consensus about the City Manager's employment or that of the Chief of Police, then the Council Member lied to a fellow City employee. I believe that this is a violation of the City's Code of Ethics and Conduct for Elected Officials. Specifically, lying to a City employee would be considered a violation of Section II D (1), Creating Trust of Local Government, and Section II D (4), Treating Everyone with Respect and in a Just and Fair Manner. The concerns in Items 1 and 2 are also likely violations of Sections II D (1) and II D (4). Section II D (4) in particular requires that "elected and appointed officials of the City of Riverside have a responsibility to make extraordinary attempts to treat all people, including city staff, in a manner which would be considered just and fair." If Sergeant Smith's information is accurate, Mr. Soubirous appears to have made extraordinary attempts to do exactly the contrary.
- (4) The above potential violations would be critical in any municipal government context. The fact that police department operations appear to be the focus of this inappropriate behavior is a seriously aggravating circumstance. The Chief of Police is the head of a group of uniformed, armed men and women who have tremendous responsibilities and concurrent authority to carry out those responsibilities. What we do is often a matter of life and death. Police operations always entail huge risk management implications and the potential to either respect or violate basic constitutional rights of our citizens. For all these reasons, discipline within the police department is of paramount importance. Elected officials are expected to understand that. Mr. Soubirous, a retired peace officer, would certainly be expected to understand that concept (even without the benefit of actual municipal law enforcement experience). If Sergeant Smith's account is accurate, Mr. Soubirous's statements to the president of the police union complaining of his dissatisfaction with the efforts of the City Manager and the Chief of Police, combined with the assertion that there were sufficient votes on the council to terminate both, can only be interpreted in one way: Mr. Soubirous was effectively telling Sergeant Smith, "You don't have to obey the Chief of Police nor his boss. You have to listen to me." This is a deliberate attempt to subvert the authority of the Chief of Police and to sow dissension and lack of discipline inside the police department. For all the reasons cited in this paragraph, that is a very dangerous and likely illegal statement to make. I believe that it is imperative that all the members of the City Council are advised about the need to respect the City Charter and to honor the City Manager's legal authority to run the day-to-day operations of City government. If there is a need to clarify the special duties, responsibilities and risks inherent in police operations, I would be happy to assist in providing such clarification.

I believe an investigation of the issues raised by Mr. Soubirous's contact with Sergeant Smith is warranted by an independent body.

I am at your disposal to assist in that investigation in any way possible.

Sergio

EXHIBIT D

EXHIBIT D

RIVERSIDE CITY CHARTER

City message at any location within the City that the Mayor deems appropriate at which the Mayor will present the Mayor's programs, objectives and priorities.

The City Council shall designate one of its members as Mayor Pro Tempore, who shall serve in such capacity at the pleasure of the City Council. In the absence of the Mayor, the Mayor Pro Tempore shall assume the duties of the Mayor. The Mayor Pro Tempore shall conduct the Council meetings and shall vote only as a member of the Council, not as Mayor Pro Tempore. In the event of a tie vote, the Mayor Pro Tempore shall not have a tie-breaking vote and Council vote shall be recorded as a negative or "nay" vote. With regards to the veto power, the Mayor Pro Tempore shall not have the power to veto acts of the City Council.

Notwithstanding any other provisions of this Charter, when a tie-vote exists for any cause, in order to break that tie, the Mayor shall have the same voting right as a member of the City Council for or against the item before the City Council. The Mayor's vote shall be deemed a City Council member's vote for all purposes, including the introduction or adoption of both ordinances and resolutions. (Effective 12/27/1995 and 12/11/1986)

Sec. 406. City powers vested in Council; exceptions.

All powers of the City shall be vested in the City Council except as otherwise provided in this Charter.

Sec. 407. Interference in administrative service.

Neither the Mayor nor the City Council nor any of its members shall interfere with the execution by the City Manager of his/her powers and duties, or order, directly or indirectly, the appointment by the City Manager or by any of the department heads in the administrative service of the City, of any person to an office or employment or their removal therefrom. Except for purpose of inquiry, the Mayor, the City Council and its members shall deal with the administrative service under the City Manager solely through the City Manager and neither the Mayor nor the City Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately. (Effective 12/27/1995)

Sec. 408. Meetings.

The City Council shall hold regular meetings at least twice each month at such times as it shall fix by ordinance or resolution and may adjourn or readjourn any regular meeting to a date and hour certain which shall be specified in the order of adjournment and when so adjourned each adjourned meeting shall be a regular meeting for all purposes. If the hour to which a meeting is adjourned is not stated in the order of adjournment such meeting shall be held at the hour for holding regular meetings. If at any time any regular meeting falls on a holiday such regular meeting shall be held on the next business day.

Special meetings may be called in accordance with State law.

Meetings of City Council-appointed and Mayoral-appointed standing and ad hoc Council committees, regardless of the number of City Council members who might be on such committees, shall be open to the public and the time and place of such meetings shall be publicly announced at the City Council meetings prior to such committee meetings.

All meetings of the City Council conducted in closed session under the Ralph M. Brown Act (California Government Code Sections 54950 et. seq.) shall be audio recorded. The recording shall be confidential and shall be available for inspection only as permitted by state law. The recording shall be retained for a period of at least two years. (Effective 1/18/2005)

Sec. 409. Same-Location.

All meetings shall be held in the Council chambers in City Hall, or in such place to which any such meeting may be adjourned, and shall be open to the public. If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be

EXHIBIT E

EXHIBIT E

AURELIO MELENDREZ - 4/15/2014
CONFIDENTIAL AND PRIVILEGED TRANSCRIPT

CONFIDENTIAL AND PRIVILEGED

CITY OF RIVERSIDE
INTERNAL INVESTIGATION

CONFIDENTIAL INTERVIEW
OF
AURELIO MELENDREZ

CONFIDENTIAL AND PRIVILEGED EXAMINATION OF
AURELIO MELENDREZ, a witness herein, noticed
by Gumpert Mastan, taken at 3901 Orange
Street, Riverside, California at 12:20 p.m.,
Tuesday, April 15, 2014, before Deborah
Troiano, CSR 7990, RPR, RMR.

Hutchings Number 502750

HUTCHINGS LITIGATION SERVICES - GLOBAL LEGAL SERVICES
800.697.3210

EXHIBIT E

AURELIO MELENDREZ - 4/15/2014
CONFIDENTIAL AND PRIVILEGED TRANSCRIPT

Page 2

1 APPEARANCES OF COUNSEL:

2

3 GUMPORT MASTAN

4 BY LEONARD L. GUMPORT

5 550 South Hope Street, Suite 825

6 Los Angeles, California 90071-2627

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Page 3

1 I N D E X

2 WITNESS: AURELIO MELENDREZ

3 EXAMINATION BY:

PAGE

4 MR. GUMPORT

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AURELIO MELENDREZ - 4/15/2014
CONFIDENTIAL AND PRIVILEGED TRANSCRIPT

Page 4

12:20 1

AURELIO MELENDREZ,

2

a witness herein, testifies as follows:

3

4

-EXAMINATION-

5

6

BY MR. GUMPORT:

7

Q. Please state your name.

8

A. Aurelio Melendrez.

9

Q. Please state your position with the city.

10

A. I am employed by the police department. I'm a
11 detective with Riverside City.

12

Q. How long have you had that position?

13

A. As a detective or as a police officer?

14

Q. Why not both?

12:20 15

A. In July it will be 11 years as a police officer.

16

And I've been a detective for a little over 4.

17

Q. Detective Melendrez, I'm Leonard Gumport. I work
18 for a law firm called Gumport Mastan. I've been hired by the
19 City of Riverside to conduct an internal investigation into
20 certain allegations concerning a conversation that may or may
21 not have happened between Sergeant Brian Smith and
22 Councilmember Michael Soubirous. And I'm trying to find out
23 what happened. I don't have a view as to what happened or did
24 not happen. My job is to conduct a series of interviews and
25 report to my client, which is the City of Riverside.

AURELIO MELENDREZ - 4/15/2014
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12:21 1 You're not here represented by counsel, and I am
2 not your lawyer. It's important to keep that in mind. This
3 is a voluntary interview which means you don't have to answer
4 any questions that I put to you. In addition, at any time,
5 simply by raising your hand, the court reporter who is seated
6 here is going to stop transcribing what's being said. And
7 there is no other recording device being operated during this
8 interview.

9 The city regards this investigation as confidential
10 and my interview of you as privileged. But because the city
11 is my only client, they get to decide whether or not to keep
12 the transcript of your interview confidential and privileged.
13 So I can't promise you that what you say to me will be kept
14 confidential. Do you understand that?

12:22 15 A. Yes.

16 Q. Good. So now let's focus on the subject of the
17 investigation. Have you ever had any communications with
18 Sergeant Brian Smith about a meeting that he had with
19 Councilmember Soubirous?

20 A. Yes.

21 Q. When did you have such a communication?

22 A. Well, the meeting took place when I was off on
23 paternity leave and my daughter was born February 12th. So I
24 know the meeting took place during then. And he actually
25 talked to me while I think I was still off a few days after

AURELIO MELENDREZ - 4/15/2014
CONFIDENTIAL AND PRIVILEGED TRANSCRIPT

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12:23 1 the meeting took place.

2 Q. So would it be accurate to say that the discussion
3 between you and Sergeant Smith took place sometime in late
4 February?

5 A. That's fair.

6 Q. Was the discussion by telephone or face to face?

7 A. I think initially it was by telephone, and then we
8 spoke a little more face to face.

9 Q. Do the discussions blend together in your mind?

10 A. A little bit. I mean just the specific points of
11 the discussion, yes.

12 Q. To the extent the discussions were face to face,
13 where did the discussion or discussions take place?

14 A. They would have either taken place in his office at
12:24 15 our Magnolia Street station or at the -- I don't think we
16 spoke at our association office. He's the vice president of
17 the union, and I'm his -- he's the president and I'm his vice
18 president. So we talk about a bunch of topics across the
19 board.

20 Q. Tell me whether anyone else was present during the
21 face-to-face discussions.

22 A. I don't believe so, not having to do with this.

23 Q. Tell me your best recollection of everything that
24 Sergeant Smith told you that Councilmember Soubirous had told
25 him in this February 2014 meeting.

AURELIO MELENDREZ - 4/15/2014
CONFIDENTIAL AND PRIVILEGED TRANSCRIPT

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12:24 1 A. Well, they met to discuss -- and I think it was
2 Soubirous that reached out to him to discuss the guards in the
3 park or some of the issues that were going on that would
4 affect our association. And somehow their conversation
5 digressed from the topic at hand to, you know, essentially I
6 don't know if it was -- I don't really want to call it
7 bullying, but there were comments made that essentially things
8 better be getting done or this issue or these issues need to
9 be getting addressed because if they're not, you know, I think
10 he said something like I have enough votes to get rid of Scott
11 or Sergio, or I forget how that discussion went that, you
12 know, things need to be handled this way.

13 And I remember it was just kind of a shocking thing
14 for -- okay. So I've been involved in our union now for seven
12:26 15 years. I've been on a PAC committee for that entire seven
16 years and never had a councilman or somebody speak that freely
17 to me. And I know it was something that fired Brian up to the
18 point where he felt he needed to contact our administration
19 and say these are the types of things that are being said.
20 And then I think there was a follow-up phone call or Brian was
21 contacted by somebody from some sort of media outlet, whether
22 it was the Press Enterprise or somebody else, essentially the
23 rumor had gotten to them too, where they said is this true, is
24 Scott Barber on the hot seat or Scott, being Scott Barber, the
25 city manager, on the hot seat or Chief Diaz on the hot seat

AURELIO MELENDREZ - 4/15/2014
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12:26 1 over some topics.

2 And our opinion is no, our chief, everyone in the
3 community loves that guy so it's kind of crazy to even think
4 that somebody would have that kind of view that he would be in
5 any kind of trouble. And Scott, I mean he's been here a
6 little over a year now. I mean that's hardly enough of a
7 sample to determine what kind of job he's doing.

8 Q. What's your best recollection of what Sergeant
9 Smith said that he had been told by Councilmember Soubirous
10 about whether or not Scott Barber's job was in jeopardy?

11 A. I believe it was that it is in jeopardy over one of
12 the -- and I think, and to the best of my recollection, that
13 it was over I think the guard situation, that a comment was
14 made and Scott kind of went out on his own type thing and
12:27 15 that's almost like it just pissed him off was the sense I got
16 from Brian, you know, when Brian spoke to him.

17 Q. What's your best recollection of what Sergeant
18 Smith told you about what Councilmember Soubirous said about
19 Chief of Police Diaz's job being in jeopardy?

20 A. That if some quality of life issues, I believe was
21 what it was, weren't addressed, then yes, his job would be in
22 jeopardy also. Or talking about transients on an offramp and
23 things like that, that those were important to him, and the
24 chief better do something about it. And if it's not, then
25 yes, his job will be in trouble.

AURELIO MELENDREZ - 4/15/2014
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12:28 1 Q. Do you have knowledge of -- I am going to rephrase
2 the question. Have you had any discussions with Councilmember
3 Soubirous about livability issues?

4 A. Yes. During the time I was off, early March, if
5 you want the exact date, I could give it to you right now,
6 first week of March, I was at an event. I don't know the
7 exact date but it had to be the first week in March. But it
8 was Read Across America, Dr. Seuss' birthday. I go and read
9 at Jefferson Elementary every year. I was still off on
10 paternity but I went to read. And he was there. And he had
11 already had the meeting with Brian. He approached me and gave
12 me a card and said hey, if you ever want to meet and discuss
13 council issues, I already met with Brian. If that works with
14 you, let me know. So I said okay.

12:29 15 I contacted him and we had a meeting. And that was
16 I think two weeks ago, week and a half ago. And the comments
17 that he made to me or what we had talked about was nothing to
18 the extreme that he talked about with Brian. I think there's
19 two things. I mean some time has passed since he had the
20 discussion with Brian, but the other thing is my father is a
21 city councilman also, and I think people tend to be a little
22 more careful with how they phrase things and say things around
23 me thinking that every night around the dinner table that we,
24 A, live together, and B, discuss everything that has to do
25 with the city. So his comments to me were much more tempered.

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12:30 1 The discussion was more about these are the things
2 as I see them in my ward, and how I would like to see things
3 get done. And the only comment that kind of jogged anything
4 in my mind was that he did make the comment that initially
5 there was some resistance or might have been the directive
6 from our department head being Chief Diaz or Sergio, to be
7 resistive to enforcing some of the quality of life issues.
8 And that was about as negative as it got during our one-on-one
9 conversation.

10 Q. He didn't say anything about Chief Diaz's job being
11 in jeopardy?

12 A. No, not to me.

13 Q. He didn't say anything about City Manager Barber's
14 job being in jeopardy?

12:31 15 A. No.

16 Q. Have you heard other members of the city say
17 anything about their jobs being in jeopardy?

18 A. No. From Mike?

19 Q. Yes.

20 A. No. Mike didn't mention anybody's job or career
21 path or anything being in jeopardy.

22 Q. Had Alicia Robinson talked to you on this issue?

23 A. No.

24 Q. Are there things I haven't asked you about that
25 concern this matter that I should be asking you about?

AURELIO MELENDREZ - 4/15/2014
CONFIDENTIAL AND PRIVILEGED TRANSCRIPT

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12:31 1 A. Well, you know, we have had -- we endorsed his
2 opponent during the campaign race. And shortly after the
3 election, when he won, couple of our graveyard officers, and I
4 don't know -- I haven't really sat to talk with them and
5 figure out where it came from. Couple of our graveyard
6 officers who are older, close to retirement, show up with the
7 reporting forms that show how much we gave to each candidate,
8 and specifically they were busting one of our board members
9 and questioning him as to how much we gave to Mike's opponent.
10 I love these guys but I don't know where to go find those
11 forms and I do this all the time. If I am not asking my
12 office staff, hey, where can we get this or ask for copies of
13 it, all of sudden they show up in this guy's hands and they're
14 drilling another board member about how much money we were
12:32 15 spending on an opponent of somebody who just won the election.
16 To me, that was a little concerning. And it makes me wonder
17 who fed them those forms and who gave them that.

18 But you know, with Mike reaching out and
19 wanting to talk to me that day about quality of life stuff and
20 whatever issues, I thought we were moving on. I didn't think
21 that this was something that was going to be hung onto. But
22 clearly I mean, it's not. We are not in a position to do
23 anything. We made our choice. We made our endorsement. And
24 it kind of -- it puts a strain on our relationship with some
25 of our members when they are getting fed one piece of

AURELIO MELENDREZ - 4/15/2014
CONFIDENTIAL AND PRIVILEGED TRANSCRIPT

Page 12

12:33 1 information, and it's disruptive. And it's almost -- comes
2 across, I don't even want to say adversarial, but contentious.
3 There is an issue there.

4 Q. So is it accurate to say it appears to you that
5 someone, and that someone may be Councilmember Soubirous --

6 A. Or someone within his campaign.

7 Q. Or someone within his campaign has a grudge against
8 the Police Officers Association for backing Soubirous'
9 opponent in the election?

10 A. Yes. And it seems like it's spread to more than
11 just us, but to the police department in general so --

12 Q. Was Sergio Diaz involved in the election at all?

13 A. No. He doesn't make endorsements. It's our
14 association. It's made by committee.

12:34 15 Q. I don't have any further questions.

16 A. All right.

17 Q. Is there anything further you think I should be
18 asking you about?

19 A. No. As I said, my interaction with him was minimal
20 and he didn't say anything negative to me. It was more to
21 Sergeant Smith.

22 Q. Well, thank you very much. Here is how we will
23 handle the transcript. You will get a copy of the transcript
24 sent to you at the address you will give the reporter off the
25 record. I will get the original transcript. And the

AURELIO MELENDREZ - 4/15/2014
CONFIDENTIAL AND PRIVILEGED TRANSCRIPT

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12:34 1 transcript will say on the cover confidential interview of
2 you, City of Riverside. And my client, the city, will decide
3 whether or not ultimately to keep the transcript confidential
4 and privileged or not. So thank you very much.

5 A. No problem.

6 MR. GUMPORT: Off the record.

7 (Proceeding concluded at 12:35 p.m.)

8 ***

9

10 I declare under penalty of perjury under the laws
11 of the State of California that the foregoing is true and
12 correct.

13 Executed at _____, California on
14 _____.

15

16

17

18

19

AURELIO MELENDREZ

20

21

22

23

24

25

AURELIO MELENDREZ - 4/15/2014
CONFIDENTIAL AND PRIVILEGED TRANSCRIPT

Page 14

1 STATE OF CALIFORNIA) ss

2

3 I, Deborah Troiano, CSR 7990, RPR, RMR, do hereby
4 declare:

5

6 That the above foregoing _____

7 () pages contain a full, true and correct

8 transcription of the proceedings.

9

10 I further declare that I have no interest in the
11 event of the action.

12

13 I declare under penalty of perjury under the laws
14 of the State of California that the foregoing is true and
15 correct.

16

17 WITNESS my hand this _____ day of

18 _____,

19

20 _____

21 Deborah Troiano, CSR 7990, RPR, RMR

22

23

24

25

EXHIBIT F

EXHIBIT F

[home](#) > [city council](#)

City Council

City Council Ward 3 - Mike Soubirous



City Wards
Riverside, California

Ward 3

Councilmember Soubirous welcomes your ideas and input regarding issues facing the Ward 3 of the City of Riverside. You can call him at (951) 826-5991 or E-Mail him at msoubirous@riversideca.gov.

(Click the ward number to view or print a detailed map)

[Biography](#)
[Vision & Goals](#)
[Boards, Committees, Commissions](#)
[Staff](#)

Welcome Greeting



Welcome to the Ward 3 Councilmember page. I look forward to serving you.

Whether you reside, work, own a business or wish to invest in Riverside, I'm here to advocate for you. Together we can build a better Riverside. Call me on my cell phone at (951) 515-1663.

I invite you to sign up for Ward 3's [electronic newsletter](#) to get the latest information and to plug into your community.

Sincerely,

Mike Soubirous

Biography

Mike Soubirous (pronounced like the car - Subaru) was elected to serve as Ward 3's City Councilmember in November 2013. He is currently serving his first term.

Mayor and City Council

Mayor	Ward 1	Ward 2	Ward 3
Rusty Bailey	Mike Gardner	Andy Melendrez	Mike Soubirous
Ward 4	Ward 5	Ward 6	Ward 7
Paul Davis	Chris MacArthur	Jim Perry	Steve Adams

Neighborhoods in Ward 3

Airport *
Alessandro Heights *
Canyon Crest *
Grand *
Hawarden Hills
Magnolia Center
Ramona *
Victoria

(*) Denotes portion

Sign up for Ward 3 Updates



Sign-up!

EXHIBIT F

Mike is a fourth-generation native Californian who started his community service at age 8, serving his church, Cub Scouts, Boy Scouts and the Civil Air Patrol. Mike attained the rank of Eagle Scout in 1976. Mike joined the California Highway Patrol in 1982.

Mike, his wife Linda and their two daughters, reside in Riverside's Ward 3. Mike is president and owner of a local small business providing traffic consulting.

In June, 2011, after 29 years of service to the people of Riverside County and the State of California, Mike retired from the California Highway Patrol as a Lieutenant and acting Commander. After graduating from the CHP Academy, he was assigned to the Riverside Area office.

Mike has held several key positions and posts during his nearly three-decade service with the CHP. He was assigned to motorcycle patrol, investigated officer-involved shootings, served as a training officer and most recently, served as the Commander of the San Geronimo Pass Area CHP office. Mike was honored in 2012 with Western Riverside County's Law Enforcement Appreciation Committee (LEAC) award - Lifetime Achievement.

Mike also developed the concept for the popular Press Enterprise "On The Road" weekly newspaper column, which answers traffic law and driver safety questions, and has contributed to many other national driving safety related publications.

Mike has worked closely with transportation officials in order to promote design changes to our county's worst roads in order to reduce traffic collisions. These roads include, SR-60, I-10, Gilman Springs Road, Cajalco Road and Ramona Expressway. Mike also partnered with transportation officials in Riverside to reduce traffic wait times at intersections with severe traffic congestion. Mike believes there is much more work to be done and looks forward to serving the people of Riverside and Ward 3.

Committed to Community Service

Riverside County Peace Officers Memorial Foundation (RCPOMF) - President
 Living Shield Ministries - Former Vice-President
 Concerns of Police Survivors (COPS) - Volunteer
 Keep Riverside Clean & Beautiful - Volunteer
 Inland Empire Hispanic Leadership Council - Supporter
 Aircraft Owners and Pilots Association - Member
 Friends of the Riverside Library - Member
 Magnolia Area Neighborhood Alliance (M.A.N.A.) - Member
 Model Deaf Community - Member
 Old Riverside Foundation - Member
 Riverside Land Conservancy - Member
 RUSD Superintendent's Advisory Council - Member
 Victoria Avenue Forever - Member

[^ Top of the page](#)

Vision & Goals

Promote openness and transparency in our City government.
 Be responsive and accessible to constituents.
 Address our City's parking problem.
 Address/evaluate the City's Red Light Program for cost and need.
 Look for ways to reduce unnecessary City spending.
 Eliminate redundant or duplicative processes that waste tax dollars.
 Identify and prioritize road repair and repaving needs.
 Develop a plan to tackle curb, gutter and sidewalk repair.
 Find ways to roll out the red carpet to businesses - cut the red tape.
 Promote local job growth - encourage businesses to locate in Riverside.
 Promote a "can-do" customer service attitude among City employees.
 Develop a plan to address City "parkway" tree problems (trimming schedule, root invasion, etc.)

Latest Ward 3 Newsletters

May 3, 2014
 April 1, 2014
 March 18, 2014
 February 28, 2014
 February 4, 2014
 January 25, 2014
 January 13, 2014

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[Member of Riverside Advisory Committee for Sewage Treatment Plant](#)
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[Legislative Field Representative for Ward 3 - Linda O'Donnell](#)

Linda has lived in Riverside since 1976. She is the mother of three adult children - one is special needs - and has three grandchildren. Linda has worked as a Legal Secretary and has owned a small business, providing legal documents/paralegal services. Linda has served the City of Riverside as a Legislative Field Representative (Councilman Schiavone), and has worked for Riverside Public Utilities. She enjoys designing jewelry, completing projects and spending time with her dogs. Linda is committed to serving the people of Riverside and especially those living in Ward 3. You can contact Linda by phone at (951) 836-5327 or by email at ldonnell@riversideca.gov.



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EXHIBIT F

<http://www.riversideca.gov/council/ward-3.asp>

5/29/2014

EXHIBIT G

EXHIBIT G

Unknown

From: Soubirous, Mike
 Sent: Thursday, February 06, 2014 5:38 PM
 To: James Thornell
 Subject: Re: City of Riverside Ward 3 Update

Thank you Jim - working hard each day to help build a better Riverside for all. Thank you for the encouragement!

Take care,

Mike Soubirous
 (951) 515-1663

Sent from my iPhone

On Feb 6, 2014, at 5:17 PM, "James Thornell" <thornell@att.net> wrote:

Mike, I believe you are doing a great job. You are right on about the aggressive panhandlers.

Jim Thornell
 1807 Prince Albert Dr
 Riverside, California 92507

From: City of Riverside <cs@riverside.ca.gov>
 To: thornell@att.net
 Sent: Thursday, February 6, 2014 12:18 PM
 Subject: City of Riverside Ward 3 Update




Smart Code
 SPECIFIC PLAN
 Riverside's Smart Code, ePlan and other economic development strategies will greatly improve our City's ability to attract business/development opportunities. The increased revenues generated by more business will help our City to better serve our residents through infrastructure repair/replacement (tree trimming, roads, sidewalks, curbs and gutters).

Give Us Your Thoughts!

There is a Survey at survey.riversideca.gov online for the community to tell the City what they are looking for in the next Parks, Recreation & Community Services Director. Paper surveys will also be available

Councilmember Mike Soubirous

February 4, 2014

Edition #3

Hello to all Riversiders - especially Ward 3 residents and business owners. This edition of the Ward 3 newsletter contains information on our parks and a recent proposal to hire security guards to patrol them. We will discuss recent street sweeping parking enforcement changes and other issues which affect you, your family or your business. I hope you find these newsletters informative. Please provide your feedback if there are items or issues you would like to see in these reports. Please call me at (951) 515-1663 or email me at msoubirous@riversideca.gov - I look forward to serving you.
 Mike Soubirous

Park Security?

Regarding the two recent newspaper articles on the "armed" guards at Riverside's parks:

The aggressive panhandling problem plaguing Riverside has been recognized by our City Council and City staff as needing immediate attention. Our people (residents and business owners alike) have strongly voiced their concerns.

This last Monday, City staff initiated a discussion regarding the proposal to bring together all stakeholders - Police, Code Enforcement, Fire, Parks & Recreation, facilities, and any department that would have any part to play in curbing our City's aggressive panhandling problem. I make the distinction between aggressive panhandling/street thugs and those we would consider "homeless."

Our City has extensive programs in place to help those who are truly homeless and are willing to accept the help offered and rebuild their lives. Our City's program elicits the help of and collaborates with our many faith-based organizations who are more than willing to step up and help with our "homeless" situation.

The program/initiative to target the aggressive panhandling problem is a completely separate issue from our "homeless." The suggestion to utilize security guards (unarmed or armed) was to simply provide extra eyes and ears at our City's parks overnight to ensure our facilities were properly locked, secured and observed. There is concern whether or not our police would be able to respond to assist these security people should they encounter problems. The choice to employ armed security or not was a consideration/suggestion to keep the security personnel safe - personal protection in case attacked during these overnight vigils.

Again, the discussion was of a proposal to put together all stakeholders in order to

EXHIBIT G

at the parks and senior centers for those that prefer the paper version. An ad will be placed in the Press Enterprise along with the use of social media, press releases, local billboards and a couple of free publications that the City produces. The rollout will be occurring all this week.



From Outside Riverside
Call (951) 826.3311 | Mobile App
3900 Main St. Riverside, CA 92501

Please Note:

The New Non-Emergency
Police Number
(951) 354-2007

If you are the victim of a
mail crime such as mail
theft, mail fraud and other
criminal activity, please call:

877-676-2455.

There is also an option on
this line to report delivery
problems.



E-Waste Drop Off
February 8
(click here)

find solutions to a problem. The use of armed or unarmed security guards was simply a suggestion and only one component of the overall proposed plan.

The public's input would also be a part of this proposal which will ultimately be put before the City Council to decide.

Congratulations to Riverside's First Baptist Church - Celebrating 140 years!

The First Baptist Church of Riverside, located in Ward 3, is one of the oldest churches in the Inland Empire and recently celebrated its 140 year on Sunday, February 2nd. The church's roots date back to February, 1874, when nine people met in Riverside, which was 10 years before our city incorporated, to establish the church. Baptisms were first performed in the creek that feeds Lake Evans at Fairmount Park. The first church facility was built in 1882 at Lemon and 8th (now University Avenue). The second church was built in 1904 at Lemon and 9th Street. The current church is located at 5500 Alessandro Boulevard (near Central Avenue) and was built in 1965. Senior Pastor Joe Lutz led the worship and celebration service. Pastor Lutz introduced Mayor Rusty Bailey and his wife and family, along with Councilmember Mike Soubirous and his wife Linda, who attended the 140th anniversary service. Congratulations to First Baptist Church of Riverside!

Street Sweeping & Parking Enforcement

Riverside's Public Works Director Tom Boyd has modified street sweeping enforcement strategies. Parking enforcement during holidays and parking immediately after the sweeper has passed by should now be handled with better discernment. If you encounter adverse street sweeping enforcement issues from this point on - please call or email me.

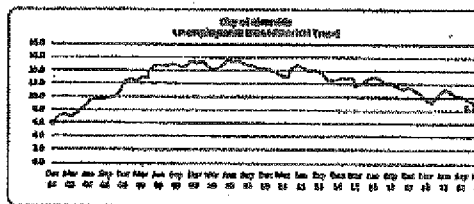
City of Riverside - Employment Statistics

*

December 2013

The unemployment rate in the City of Riverside was 9.2% in December 2013, down from 9.7% percent in November 2013, and below the year-ago estimate of 11.2 percent. This compares to an unemployment rate of 9.1 percent for Riverside County, 8.9 percent for the MSA, and an unadjusted 7.9 percent for California and 6.5 percent for the nation during the same period.

Riverside	December 2013	November 2013
Total Labor Force	165,200	165,200
Employment	150,100	149,100
Unemployment	15,200	16,000
Unemployment Rate	9.2%	9.7%
County Unemployment	9.1%	9.6%
MSA Unemployment	8.9%	9.4%
State Unemployment	7.9%	8.3%
US Unemployment	6.5%	6.6%



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type:click&cid=ZWfzPTEmbWTpbQlwZ2lkPTlwMTQwMjA2LjR4NTMSNikjlmJk3NhZ2VpZD1NREhUJFJLLUJVCyMDE0MDIwN4yODUzOTY3MSZkYXl

This email was sent to it@cityofriverside.org using GoDelivery, on behalf of: City of Riverside - 3000 Main Street, Riverside, CA 92502 - 951-828-5311

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4/29/2014

EXHIBIT G

EXHIBIT H

EXHIBIT H

Unknown

From: Soubirous, Mike
Sent: Saturday, February 08, 2014 8:08 PM
To: Jane Kircher
Subject: Re: Panhandlers abound...

Hi Jane,

I'm with you on this. I have seen and continue to see the same things you are seeing regarding the aggressive panhandling and our traffic officers. I watch RPD officers drive by panhandlers every day (and night). No action - not even a look. I see our traffic units "working" the same sections of our City over and over, and not venturing out to other problem places.

Please know that all seven Councilmembers are committed to curbing our aggressive panhandler problem. It must stop. I can understand the frustration our business owners and residents feel - I see it too. I have been working to educate our council and city staff from my own law enforcement experience with panhandlers/homeless and will keep working on this till it is manageable.

Our City Manager has recently committed to tackling this problem head-on. He is developing a tactical plan that will include all involved departments and present it to the Council soon for approval and funding.

Part of the problem has been our PD's lack of enforcing our City's ordinances related to panhandling. This will stop. We will take back our City. With Council support this will happen.

Thank you for taking the time to email me on this very important issue. I appreciate your assessment. I also ask for your support on my quest to tackle this problem.

Sincerely,

Mike Soubirous
(951) 515-1663

Sent from my iPad

On Feb 7, 2014, at 8:43 AM, "Jane Kircher" <janekircher@charter.net> wrote:

Mike, over the past 2 weeks I have observed panhandlers at Phone's Etc. on Sunnyside and also at the post office. I called the non emergency number from the post office this week to alert the PD. Asked if the post office personnel called the PD and also asked the owner at the Phone's Etc. to call when they see them hanging around. When I paid my bill there recently the side parking area was occupied by two panhandlers.....and the mess they leave.

It doesn't appear that either business feel confident the problem will be handled by the PD so a visit from you or your staff would help. Also I am still hearing that the "antique/thrift shops" are still plagued with the problem. Those that came to the MANA meeting requested help but then feel that if they befriend these folks they will be safer than contacting the city. Keep in mind they

4/29/2014

EXHIBIT H

are women in business and have no one to back them up!

Also, the USA Gas station on San Diego and Central has the same problem with constant harassment, sometimes even threatening.

I also observed our "busy bee" motorcycle detail out and about on the same day that I was at the post office ticketing anything that moved. What's up with this Mike? I see people speeding down Indiana, California, Van Buren and other areas of the city that might increase revenue for the city...why target a small area like De Anza, San Diego and Riverside Drive where our residents are likely coming and going from work or others going to shop at the Plaza. Give me a break! They drive right by the "panhandlers" and stop grandpa for picking his nose!

Enough already! Have a great weekend and thanks for your energy and service! Truly appreciated.

Email: janekircher@charter.net

Jane Kircher

951-683-2324 Fax: 951-683-2345

Cell: 951-203-0344

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EXHIBIT H

4/29/2014

EXHIBIT I

EXHIBIT I

Unknown

From: Soubirous, Mike
Sent: Monday, February 10, 2014 4:25 PM
To: O'Donnell, Linda
Subject: Fwd: More information regarding complaints RE: Panhandlers abound...

Linda, can you check into this. Call the Self-Storage owner/manager and find out the history and location of the "camp." Also pass along to Lt. Vance Hardin. I'll call him (storage guy) after you get the details.

Thank you.

Mike
Sent from my iPhone

Begin forwarded message:

From: Jane Kircher <janekircher@charter.net>
Date: February 10, 2014 at 3:03:09 PM PST
To: "Soubirous, Mike" <msoubirous@riversideca.gov>
Subject: More information regarding complaints RE: Panhandlers abound...

Just had another complaint that the PD and or city etc. have ignored or have not addressed appropriately. The Central Avenue Self Storage (3399 Central) manager says the homeless are building quite a "community" in back of the units. They have called frequently and have seen some vans etc. come by and stop to talk with the residents and the PD said they would issue an eviction notice some time ago but nothing has happened.
Dave is the person to talk to...# is 951-276-2751.

Jane Kircher/Practice Assist
951-683-2324 Fax: 951-683-2345
Cell: 951-203-0344
Email: janekircher@charter.net
www.practiceassist.com
www.managedcareprovidersconsortium.com

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From: Soubirous, Mike [<mailto:msoubirous@riversideca.gov>]
Sent: Saturday, February 08, 2014 8:09 PM
To: Jane Kircher

EXHIBIT 1

4/29/2014

Subject: Re: Panhandlers abound...

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EXHIBIT I

4/29/2014

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Email: janekircher@charter.net

Jane Kircher

951-683-2324 Fax: 951-683-2345

Cell: 951-203-0344

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EXHIBIT 1

4/29/2014

EXHIBIT J

EXHIBIT J

Unknown

From: Soubirous, Mike
Sent: Tuesday, February 11, 2014 11:11 AM
To: <joseph@pdmwebsolutions.com>
Subject: Re: Park Security - Ward 3 Update

Might be best to see if we even move forward on the guards - might not happen. But would like to meet either way. I'll check my schedule and get back soon.

Mike

Sent from my iPhone

On Feb 11, 2014, at 10:55 AM, "Joseph Allen" <joseph@pdmwebsolutions.com> wrote:

My schedule is flexible. What time works best for you? I can meet whenever it's convenient for you. It shouldn't take too long. We just need a computer and internet access. Because of your law enforcement experience, you will be able what this software is constructed for very quickly. Thanks.

PDM Web Solutions, Inc.
Web Development & Online Hosting Services
www.pdmwebsolutions.com | 951-543-7608

Like the PDM Web Solutions Facebook Page!
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Follow PDM Web Solutions on Google Plus!

From: "Soubirous, Mike" <msoubirous@riversideca.gov>
Sent: Tuesday, February 11, 2014 10:29 AM
To: "<joseph@pdmwebsolutions.com>" <joseph@pdmwebsolutions.com>
Subject: Re: Park Security - Ward 3 Update

Thank you Joseph. I would like to meet. We will see - as time progresses - if security guards are hired or not. There has been no firm decision.

Mike

Sent from my iPhone

On Feb 11, 2014, at 9:46 AM, "Joseph Allen" <joseph@pdmwebsolutions.com> wrote:

Council Member Mike Soubirous,

Good morning. My name is Joseph Allen. I own PDM Web Solutions, Inc. here in Riverside. The Ward 3 Update that you emailed on February 6th caught my attention because of the park security discussion. I'm currently working with local security guard companies to beta-test a cloud-based software designed to manage all major aspects of scheduling, management, and reporting of guard company activities and their security guards. The reporting aspect of the software enables guard companies to give their clients real-time access to the data the guards collect while on patrol. It also

generates reports beneficial to law enforcement. There is too much explain in this email, but I think there may be a really good opportunity to use this reporting system to measure the performance and effectiveness of the security guards and to provide information that would otherwise not be available in a real-time environment.

I would appreciate the opportunity to discuss with you the aspects of the park security requirements and see if there would be an advantage to all parties involved in the park security issue to have access to the type of data this software is designed to manage. Currently, there is no other software on the market that goes to this level for this industry. We are beta-testing with two companies this week and would like to expand the scope to a greater and more beneficial situational management environment.

Please contact me when you have time available to meet. I can show you the inner workings so that you can see the full reach of this software, and provide your input on future design features. Thank you for your time.

Joseph Allen
951-543-7608

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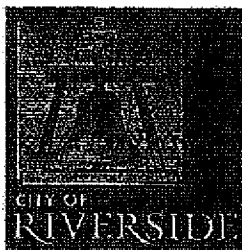
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EXHIBIT J

4/29/2014

EXHIBIT K

EXHIBIT K



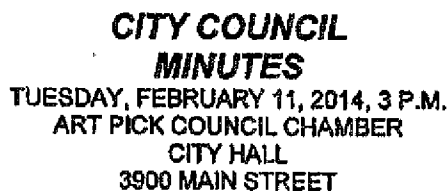
CITY COUNCIL MINUTES

TUESDAY, FEBRUARY 11, 2014, 3 P.M.
ART PICK COUNCIL CHAMBER
CITY HALL
3900 MAIN STREET

COUNCILMEMBERS

City of Arts & Innovation

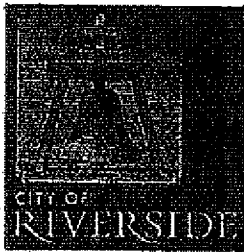
	WARDS	1	2	3	4	5	6	7
Roll Call:	Present	X	X	X	X	X	X	X
Mayor Bailey called the meeting to order at 3 p.m. in the Art Pick Council Chamber with all Councilmembers present.								
ORAL COMMUNICATIONS FROM THE AUDIENCE There were no oral comments at this time.								
<u>CLOSED SESSIONS</u> The City Council recessed to the City Council Board Room for closed sessions pursuant to Government Code (1) §54956.7 to discuss and determine whether two applicants for licenses or license renewals, who have a criminal record, are sufficiently rehabilitated to obtain the licenses; (2) §54956.9(d)(1) to confer with and/or receive advice from legal counsel concerning City of Riverside v. Rubidoux Community Services District, et al.; SBSC Case No. CIV DS 1310520; (3) §54956.9(d)(1) to confer with and/or receive advice from legal counsel concerning Rebecca Ledezma, et al. v. City of Riverside, et al., USDC Case No.: ED CV12-1524 VAP (SPx); (4) §54956.9(d)(2) to confer with and/or receive advice from legal counsel concerning one case of anticipated litigation; (5) §54956.9(d)(4) to confer with and/or receive advice from legal counsel concerning one case of anticipated litigation; and (6) §54957.6 to review the City Council's position and instruct designated representatives regarding salaries, salary schedules, or compensation paid in the form of fringe benefits of all Executive Management employees, all Management and Confidential employees as defined by PERS, Fire Management Unit, Riverside City Firefighters Association, Riverside Police Officers Association (Police and Police Supervisory Units), Service Employees International Union #721, International Brotherhood of Electrical Workers #47, and Riverside Police Administrators Association. The City Council recessed at 3:55 p.m. and reconvened at 6:30 p.m. in the Art Pick Council Chamber with Mayor Bailey presiding and all Councilmembers present. The Invocation was given by Councilmember Gardner. The Pledge of Allegiance was given to the Flag.								



City of Arts & Innovation

99-191

EXHIBIT K



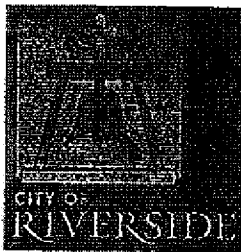
CITY COUNCIL MINUTES

TUESDAY, FEBRUARY 11, 2014, 3 P.M.
ART PICK COUNCIL CHAMBER
CITY HALL
3900 MAIN STREET

COUNCILMEMBERS

City of Arts & Innovation

	GARDNER	MELENDREZ	SOUTHERS	DAVIS	MARTHUR	PERRY	ADAMS
WARDS	1	2	3	4	5	6	7
REIMBURSEMENT - CODE ENFORCEMENT - 3382 MARICOPA - SUPPLEMENTAL APPROPRIATION The City Council (1) accepted \$1,100 in reimbursement for costs and attorney's fees associated with code enforcement action and rehabilitation of property at 3382 Maricopa Drive; and (2) increased revenues and appropriated expenditures in the amount of \$1,100 to Special Program Account 1300000-450239. REIMBURSEMENT - CODE ENFORCEMENT - 4080 STRAWBERRY - SUPPLEMENTAL APPROPRIATION The City Council (1) accepted \$3,500 in reimbursement for costs and attorney's fees associated with code enforcement action and rehabilitation of property at 4080 Strawberry Street; and (2) increased revenues and appropriated expenditures in the amount of \$3,500 to Special Program Account 1300000-450209. MINUTES The Minutes of the City Council meeting of February 4, 2014, were approved as presented. UTILITY SERVICES/LAND USE/ENERGY DEVELOPMENT COMMITTEE - SUBSTITUTION OF MEMBER The City Council approved the request of Councilmember Melendrez to serve in place of Councilmember Perry on the City Council Utility Services/Land Use/Energy Development Committee to discuss the sports arena. AGREEMENT - GREENBELT PRESERVATION GRANT PROGRAM - SUPPLEMENTAL APPROPRIATION The City Council approved the City Council Utility Services/Land Use/Energy Development Committee recommendations to (1) create the Greenbelt Preservation Grant Program to be administered by Riverside Public Utilities in cooperation with the Gage Canal Company to encourage grove replanting and low impact family farming; (2) appropriate \$50,000 from General Fund reserves towards the Greenbelt Preservation Program; and (3) authorize the City Manager, or his designee, to execute the Greenbelt Preservation Grant Program Agreement with qualifying property owners. NORTHWEST MOSQUITO AND VECTOR CONTROL DISTRICT BOARD OF TRUSTEES APPOINTMENT The City Council reappointed Dr. Gary Bradley to the Board of Trustees of							



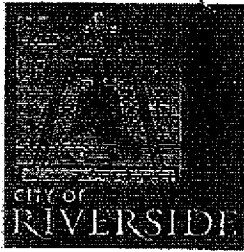
CITY COUNCIL MINUTES

TUESDAY, FEBRUARY 11, 2014, 3 P.M.
ART PICK COUNCIL CHAMBER
CITY HALL
3900 MAIN STREET

COUNCILMEMBERS

City of Arts & Innovation

	GARDNER	MELLENDEZ	SOURDIS	DAVIS	MACARTHUR	PERRY	ADAMS
WARDS	1	2	3	4	5	6	7
the Northwest Mosquito and Vector Control District through December 31, 2017. AGREEMENT AMENDMENT - PROGRAM MANAGER OF THE BOX AT FOX ENTERTAINMENT PLAZA The City Council (1) approved the First Amendment to the Agreement with Rey O'Day for a total contract amount not-to-exceed \$60,000 for program management of The Box at the Fox Entertainment Plaza through September 30, 2014; and (2) authorized the City Manager, or his designee, to execute the agreement and make any non-substantive changes. AGREEMENT AMENDMENT - FOX THEATER INTERIM EXECUTIVE DIRECTOR The City Council (1) approved the Second Amendment to the Agreement with Cynthia Wright dba The Wright Image for a total contract amount not-to-exceed \$124,999 for serving as Interim Executive Director of the Fox Theater Foundation; and (2) authorized the City Manager, or his designee, to execute the agreement and make any non-substantive changes. PARATRANSIT VEHICLES FOR SPECIAL TRANSPORTATION PROGRAM The City Council approved purchase of four 16-passenger paratransit vehicles for the Parks, Recreation, and Community Services Department Special Transportation Program in the amount of \$441,691.90 from A-Z Bus Sales in accordance with Purchasing Resolution No. 22576, Section 201 (h). BID 7225 - POLICE TASERS AND TASER CARTRIDGES The City Council awarded Bid 7225 to Proforce Law Enforcement, Prescott, Arizona, for \$76,701 plus tax from Police Asset Forfeiture Account 3145200-426800 for eighty X26 Tasers and 350 X26 Taser cartridges for uniformed police officers. BID 7224 - POLICE MOTORCYCLES WITH EMERGENCY EQUIPMENT The City Council awarded Bid 7224 to BMW Motorcycles of Riverside for \$51,483.46, after trade-in, from Police Asset Forfeiture Account 3145400-462100 for two police motorcycles with emergency equipment. BEVERAGE CONTAINER RECYCLING AND LITTER CLEANUP ACTIVITIES GRANT - SUPPLEMENTAL APPROPRIATION The City Council (1) authorized the Public Works Director to submit a Funding Request Form to California Department of Recycling Resources and Recovery (CalRecycle) for \$80,317 in funding for beverage container							



CITY COUNCIL MINUTES

TUESDAY, FEBRUARY 11, 2014, 3 P.M.
ART PICK COUNCIL CHAMBER
CITY HALL
3900 MAIN STREET

COUNCILMEMBERS

ADAMS	7	
PERRY	6	
MACARTHUR	5	
DAVIS	4	
SOUDEIROUS	3	
MELNDRIZ	2	
GARDNER	1	

City of Arts & Innovation

WARDS

recycling and litter cleanup activities; (2) upon grant award, authorized the Finance Director/Treasurer to increase the estimated Fiscal Year 2013-14 revenues by \$80,317 to be offset by expenditures in the same amount into a project account titled, "City/County Payment Program - Cycle 13/14"; and (3) authorized the City Manager, or his designee, to execute and submit the necessary documents in the furtherance of the Funding Request Form to CalRecycle.

MAYOR/COUNCIL MEMBER COMMUNICATIONS

LEGISLATIVE REPORTS

There was nothing to report on the CA Cities Advocate dated January 31, 2014.

**BRIEF STATUS REPORTS FOR REGIONAL ORGANIZATIONS,
CONFERENCES, SEMINARS, AND MEETINGS ATTENDED BY MAYOR
AND CITY COUNCIL - ANNOUNCEMENTS**

Councilmember Davis reported on the Executive Committee meeting of the Riverside County Division of the League of California Cities and upcoming community events. Councilmember Soubriou reported on upcoming community events.

CITY ATTORNEY REPORT ON CLOSED SESSIONS

The City Attorney announced that during the closed session pursuant to Government Code §54956.7, the City Council granted the appeal of one applicant and directed the Finance Director to issue a taxi driver's permit.

ITEMS FOR FUTURE CITY COUNCIL CONSIDERATION

Councilmember Melendrez requested referral of AYSO activities to the City Council Community Services and Youth Committee. Councilmember Soubirous requested referral of the taxi driver appeal process to the City Council Public Safety Committee.

The City Council adjourned at 10:18 p.m.

Respectfully submitted,

COLLEEN J. NICOL
City Clerk

EXHIBIT

L

EXHIBIT L

Unknown

From: Charrette, Eric
Sent: Tuesday, February 25, 2014 4:16 PM
To: Soubirous, Mike
Subject: RE: problem in shopping center
Categories: Red Category

FYI. This location has been added to the weekly homeless outreach effort that is scheduled for Wednesdays.

From: Soubirous, Mike
Sent: Tuesday, February 25, 2014 3:59 PM
To: Charrette, Eric
Subject: Re: problem in shopping center

Thank you very much for your work. :)

Sent from my iPhone

On Feb 25, 2014, at 3:50 PM, "Charrette, Eric" <ECharrette@riversideca.gov> wrote:

Thank you Sir for the kind words and confidence. The addressing of issues is in progress.

From: Soubirous, Mike
Sent: Monday, February 24, 2014 11:30 PM
To: martin@zadoriangroup.com
Cc: MacArthur, Chris; Charrette, Eric; O'Donnell, Linda
Subject: FW: problem in shopping center

Greetings Mr. Zadorian,

I received a copy of your email as sent to Councilmember Chris MacArthur this past Saturday. I am very familiar with your center and stores located on Arlington Avenue between Streeter and Jefferson. This location is in Riverside's Ward 3. I see in this email, that Councilman MacArthur forwarded your concerns to Riverside Police Lieutenant Eric Charrette. Please know that Lieutenant Charrette is very dedicated and capable, and I know he will see this problem to a speedy resolve. Please let me know if things improve. We will keep on this. I am dedicated to curbing Riverside's aggressive panhandling problem and our "homeless" campers. I know how these panhandlers and "campers" affect business. Please call me any time.

Sincerely,

Mike Soubirous
Riverside City Councilmember - Ward 3
(951) 515-1663
msoubirous@riversideca.gov

From: MacArthur, Chris
Sent: Monday, February 24, 2014 3:22 PM

EXHIBIT L

4/29/2014

To: Charrette, Eric
Cc: Martin Zadorian; Soubrou, Mike; Barber, Scott; Diaz, Sergio; O'Donnell, Linda
Subject: Re: problem in shopping center

Thanks Eric for your help!

Chris MacArthur
Councilmember, Ward 5
City of Riverside

On Feb 24, 2014, at 3:14 PM, "Charrette, Eric" <ECharrette@riversideca.gov> wrote:

Hello Mr. Zadorian,

I received Councilmember MacArthur's forward reference the issue at your recently acquired property. I had not received any prior emails, but will be your point of contact for issues involving the Police Department from this point forward. I am the Area Commander for the Central Neighborhood Policing Center (NPC) and our team will be working to address your concerns. I have also requested extra patrols for the evening hours to assist our efforts.

Please feel free to contact me directly with anything further.

From: MacArthur, Chris
Sent: Saturday, February 22, 2014 8:01 PM
To: Martin Zadorian
Cc: Soubrou, Mike; Barber, Scott; Diaz, Sergio; Charrette, Eric; O'Donnell, Linda
Subject: Re: problem in shopping center

Hi Mr. Zadorian:

Your shopping center is in Ward 3, which is represented by Councilmember Mike Soubrou. I have also copied Chief Sergio Diaz, City Manager, Scott Barber, and Area Commander, Eric Charrette on this e-mail. I am confident that CM Soubrou will reach out to help assist you in remediating this problem.

Best wishes,

Chris MacArthur
Councilmember, Ward 5
City of Riverside

On Feb 22, 2014, at 7:48 PM, "Martin Zadorian"
<martin@zadoriangroup.com> wrote:

Dear Council Member Chris Mac Arthur ,

I have recently purchased the shopping center at 5405 Arlington

EXHIBIT L

4/29/2014

Avenue Riverside, CA

There is a consistent issue with homeless gathering there at night in the Parking lot and also sleeping there. They gather in the parking lot next to McDonalds and also at the pathway at the right of the plaza. Please refer to the image attached. In other cities we have invested in, the Police Department would setup a night patrol in that area until the issue is remedied.

I have already sent an e-mail to the Police Department last week but have not yet received a response. Any assistance from you would be much appreciated.

Thank you and I appreciate your time and service.

--
Martin Zadorian
martin@zadoriangroup.com
Zadorian Group, LLC.
[\(818\) 445-4848](tel:(818)445-4848)
<plaza.gif>

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Version: 2014.0.4570 / Virus Database: 3931/7413 - Release Date: 04/29/14

EXHIBIT L

4/29/2014

EXHIBIT

M

EXHIBIT M

Unknown

From: Soubrious, Mike
Sent: Saturday, March 01, 2014 9:27 PM
To: Christopher Pracht
Subject: Re: Vagrants

Happy to serve. We will forward to RPD with a request for extra patrol. Please keep me posted if things improve or not.

Mike

Sent from my iPhone

On Mar 1, 2014, at 5:10 PM, "Christopher Pracht" <wr6g@sbcglobal.net> wrote:

Thank you Councilman for returning my email. Thursdays in the morning during trash pickup is when we have the most trouble so if RPD could make a presence that would be great. I know the officers have more important things to do than run off vagrants but if they get a chance I am sure it would help. I have attached the same video in a different format so you should be able to play it now. Thank you for listening, we really appreciate your service!

Respectfully,

Christopher Pracht
4742 Granada Ave.

From: "Soubrious, Mike" <msoubrious@riversideca.gov>
To: Christopher Pracht <wr6g@sbcglobal.net>
Cc: "O'Donnell, Linda" <lodonnell@riversideca.gov>
Sent: Friday, February 28, 2014 7:07 PM
Subject: RE: Vagrants

Hi Mr. Pracht,

Thank you for taking the time to email me about your concerns. I was unable to "view" the video at the City Hall computer. I have forwarded it to my home computer to view. I concur with your assessment of these street people (criminals) who sift and dig and leave trash all over the street. Your safety and well-being is very important to me. As you probably know, I have been a very outspoken critic of how our City has been handling the aggressive panhandling, street people and "homeless."

I will ask RPD to provide extra patrol in your neighborhood. Hopefully they will and we will see a difference.

I will review the video clip (if possible) and get back with you with a comment.

Thank you!

Mike Soubrious
(951) 515-1663

EXHIBIT M

4/29/2014

From: Christopher Pracht [mailto:wr6g@sbcglobal.net]
Sent: Friday, February 28, 2014 6:06 PM
To: Soubirous, Mike
Subject: Vagrants

Councilman Soubirous,

I have attached a video of a vagrant sifting through the trash on Granada. As you will see, he tears and dumps the trash bags in to the can and then dumps what appears to be a bottle of tomato juice and takes the bottle. It created a nice soupy mess in the can. There are other vagrants on bicycles pulling trash cans on small trailers also. It is a regular activity on Thursdays here on Granada.

Unfortunately, there is no telling what these people are capable of. My wife leaves for work about the time these bums are in our neighborhood and she is quite afraid of them. There have already been cars broken into and once they start breaking into our homes I will be forced to defend what is mine. I hope you can find a solution soon as this situation is getting out of hand and I am running out of patience. If you need more video let me know. Thanks for your service!

Respectfully,

Christopher Pracht
4742 Granada Ave.

<Vagrant1.exe.txt>

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Version: 2014.0.4570 / Virus Database: 3931/7413 - Release Date: 04/29/14

EXHIBIT M

4/29/2014

EXHIBIT N

EXHIBIT N

GUMPORT | MASTAN

A Law Partnership

550 South Hope Street
Suite 1765
Los Angeles, CA 90071-2627
Telephone: (213) 452-4900

Leonard L. Gumport
Peter J. Mastan

April 2, 2014

PRIVILEGED AND CONFIDENTIAL

Steve Adams
City Council Member – Ward 7
City of Riverside
3900 Main Street
Riverside, CA 92522

Re: Agreement for Legal Services

Dear Council Member Adams:

The law firm of Gumport | Mastan ("G|M") submits this proposed agreement ("Agreement") for the employment of G|M to provide legal services to the City of Riverside (the "City" or "You"). In return for G|M's commitment to provide services to the City in accordance with this Agreement, the City will be required to pay for G|M's services as specified in this Agreement and to reasonably cooperate in providing information to G|M, so that it can properly advise the City.

G|M will provide an independent investigation and report to the City concerning allegations made in the attached written materials that the City provided to G|M. I will be the attorney at G|M with primary responsibility for conducting the investigation and preparing the report. G|M is not engaged in this Agreement to provide any representation to the City in any litigation. G|M will charge for its services at the hourly rates specified in this Agreement, and will charge for its out-of-pocket expenses. G|M will provide its services subject to a cap of \$49,000 for its fees and costs, and this cap only applies to the investigation and report described in preceding sentences of this paragraph.

EXHIBIT N

This Agreement and the scope of this engagement of G|M may only be changed by a written agreement signed by the City and G|M.

In return for G|M's commitment to provide services in accordance with this Agreement, the City agrees to pay for G|M's services, and to reimburse G|M's costs, as specified in this Agreement (including the cap of \$49,000 described in this Agreement for services within the scope of this Agreement). In addition, the City shall reasonably cooperate in providing information to G|M so that G|M can properly and efficiently render the services provided in this Agreement. The \$49,000 cap is predicated on G|M's receiving such reasonable cooperation from the City.

The investigation and report to be conducted by G|M will be independent, and G|M makes no representation about the outcome of any such investigation. Further, G|M's compensation and reimbursement (subject to the cap described in this Agreement) are not and shall not be contingent on the outcome, conclusions, or opinions expressed by G|M in conducting its investigation and in its report of its investigation.

The City agrees that nothing in this Agreement or in any comments or statements G|M may make to City constitute a promise or guarantee about the outcome of any matter in which G|M will provide services; any such comments or statements are expressions of opinion only. The City also hereby acknowledges that G|M has made no promises or guarantees about the outcome of any matter in which G|M will represent the City.

G|M determines its fees for services rendered on an hourly basis. Subject to the cap described in this Agreement, the City will be required to pay G|M at its hourly rates for all time that G|M reasonably spends in rendering services on the City's behalf. Currently G|M's hourly rates are as follows:

Partners:	\$425 to \$550 per hour
Associates:	\$260 to \$330 per hour
Para-professionals and Document Clerks:	\$50 to \$150 per hour

My hourly rate for this matter will be \$550. Attached is a copy of my resume.

G|M currently does not employ any associates. However, in the event that G|M does employ one or more associates, the associates' hourly rates will be between \$200-375 per hour depending upon experience.

EXHIBIT N

Subject to the cap described in this Agreement, the City will be required to pay G|M at its customary hourly rates for all time that G|M reasonably spends on this matter.

Hourly rates are subject to adjustment from time to time without notice, provided the adjustments are made in the ordinary course of G|M's business and G|M will advise the City in advance of any changes that are applicable solely to the City or that are not made in the ordinary course of its business.

By reason of the limited scope of the engagement, I do not expect that there will be any change in my hourly rate during the investigation and the preparation of the report.

Subject to the cap described in this Agreement, the City will be required to reimburse G|M for all reasonable out-of-pocket expenses, including, without limitation, photocopying, scanning, telephone toll and long-distance, secretarial overtime, messenger, parking, and travel. G|M will charge to the City as costs the same amount that G|M is charged for those costs, and will not mark up those costs in order to make a profit on those costs, except that (a) G|M charges \$.15 per page for in-house copies and/or scans, and (b) G|M charges for mileage at the Privately Owned Vehicle Mileage Reimbursement Rate established by the U.S. General Services Administration (which rate is currently .565 cents per mile).

G|M will charge the City for secretarial overtime only when the urgency of its matters require G|M to have a secretary work overtime on such matters, or when its matters require G|M to use outside secretarial or word processing services.

Domestic air travel will be charged at coach rates, unless G|M is given such short notice of the need for such travel that it is impractical to obtain tickets at those rates. International air travel will be charged at business class rates.

G|M does not have space to store large volumes of client files, and G|M is not in the document storage business. G|M will charge for off-site storage costs if the volume of documents on the City's matters requires it to use an off-site storage facility.

At the conclusion of G|M's representation of the City, the City must make arrangements to take possession of its files from G|M, including any files that G|M has stored at an off-site storage facility. If the City fails to do so within 60 days, G|M shall have no responsibility whatsoever arising out of the storage of the City's files or to pay any charges for the storage of its files, and the City shall continue to be obligated to pay any charges applicable to their continued storage. If the City fails to timely retrieve its files after the conclusion of G|M's representation of the City, then the City agrees that G|M may, in its discretion, either destroy or abandon the files or ship them to the City at the City's expense.

EXHIBIT N

G|M may withdraw from its representation of the City in accordance with the applicable California State Bar Rules of Professional Conduct. Grounds for withdrawal include, but are not limited to, a client's breach of its agreement to pay legal fees and expenses and a client's rendering it unreasonably difficult for the attorney to represent the client effectively.

A statement itemizing services rendered will be submitted to the City monthly. Payment for professional services and expenses are due within 45 days. If the City wishes a statement other than in the ordinary course of G|M's business, one will be provided within 10 days after the City requests it in writing.

Please review all G|M's billing statements promptly and carefully. Questions or problems concerning any statement should be discussed with Leonard Gumpert or Peter Mastan of G|M within 30 days after the statement date. There will be no charge for discussing the statement within the initial 30 day-period. Thereafter, the City will be charged for such discussions at G|M's standard hourly rates. In addition to any other grounds permitted by law, if any statement is not paid within 45 days after receipt, G|M may, on seven days' notice, confirmed in writing, seek to terminate its engagement and to withdraw from representing the City in accordance with the applicable rules of professional conduct.

G|M has conducted a conflicts check including all parties that are known to G|M to be involved in this matter. G|M does not believe that it has any conflicts of interest.

G|M's only client in connection with this Agreement shall be the City. Whenever an independent investigation is conducted, there may well be disputes or disagreements between or among the City and its officials, staff, and employees. Under no circumstances should City officials, staff, or employees form the mistaken impression that G|M is counsel for any person or entity other than the City.

In other words, G|M will be representing the City's interests only, not the personal interests of its officials, staff, and employees. Whenever the City requests any of its officials or staff or employees to provide information to G|M, the City shall inform such person or entity that G|M represents only the City's interests. This will also confirm that G|M may so inform and advise such person or entity.

In the event that G|M discovers any conflict of interest, G|M will so notify the City. G|M reserves the right to withdraw from the representation in the event of any actual or potential conflict of interest.

EXHIBIT N

If any dispute arises out of this agreement or any act or omission of G|M or any of its members in connection with G|M's representation of the City, neither G|M, nor any of its members, nor the City shall be entitled to recover the attorneys' or professionals' fees or costs incurred in connection with any legal proceeding to pursue or defend that dispute, whether or not those attorneys' or professionals' fees or costs are incurred in connection with a judicial proceeding, an arbitration, or any other proceeding.

IN ADDITION, IN ANY SUCH DISPUTE, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THERE SHALL BE NO RIGHT TO JURY TRIAL, AND G|M AND THE CITY AGREE THAT THE DISPUTE SHALL BE DECIDED WITHOUT A JURY.

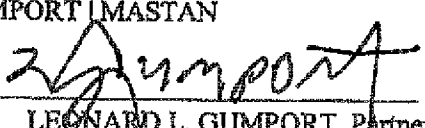
If a dispute arises over the fees for services or costs charged to the City, then, at the City's option, the dispute shall be submitted to arbitration in accordance with the applicable rules of the California State Bar Fee Arbitration Program, as set forth in California Business and Professions Code §§ 6200 through 6206. Each side shall bear its own attorneys' and professionals' fees and costs incurred in connection with any such proceeding.

This will confirm that G|M will represent the City's interests only with respect to specific agreed upon matters. The City agrees that such representation is not intended to preclude and shall not preclude G|M from representing any other persons and entities in unrelated matters.

This agreement, when approved by the City, constitutes a formal written contract between the City and G|M. By signing this letter, the signatory represents that he or she is authorized to do so for the benefit of the City and that the City shall be bound by all the terms of this agreement. Accordingly, please carefully review this agreement before it is signed and returned by the City. Signatures may be exchanged via email.

Sincerely,
GUMPORT |MASTAN

By

 4/7/14
LEONARD L. GUMPORT, Partner

ACCEPTED AND APPROVED:
CITY OF RIVERSIDE

By


Print name: STEVEN K. ADAMS

Title:

MAYOR PRO TEMP

APPROVED AS TO FORM


City Attorney

EXHIBIT

N

EXHIBIT O

EXHIBIT O

Law Offices of Danuta W. Tuszynska

7121 Magnolia Avenue

Riverside, CA 92504

951.781.1233

FX 951.781.1232

April 7, 2014

Mr. Scott Barber
City Manager,
City of Riverside

*Re: Councilman Mike Soubirous; Notice of Investigation; Demand for Alleged
Complaints and Request for Information Pertaining to Same.*

Dear Mr. Barber,

Please be advised that this office represents the interests of Councilman concerning a pending internal investigation as noted below. Please provide, in writing, Notice of any and all Complaints and the actual complaints, as well as any investigation that has been conducted thus far.

Councilman Soubirous was advised on April 1, 2014, that he has been accused by four individuals of violating Riverside City Charter Chapter 407, and has created a "hostile work environment." This advisement came from a City Council member and the Mayor. He was also told that these four persons had filed under the "whistleblower" act and would not be identified, and was told - after asking - that he would "never know their identity," which is patently ridiculous.

Councilman Soubirous was also told (verbally - nothing in writing) the City would be securing the services of an outside investigator, who would be contacting him within a week or so regarding this matter, yet another waste of the taxpayer's dollars.

It is simply ludicrous to represent to Mr. Soubirous that the identity of the complainants, as well as the substance of the complaints, is to be withheld from him, and that he will never know their identity. The fact that these representations were made orally, and not in writing as is common practice, further illustrates the invalidity of the City's alleged investigation. One cannot overlook the possibility that these alleged complaints come about after Councilman Soubirous has openly questioned the inner workings of some City departments.

Please advise, in writing, the alleged complainants and substance of their complaints to Councilman Soubirous.

Thank you for your courtesy and consideration of this matter.

EXHIBIT 0

Letter to <insert name>

<date>

Re: <matter>

Page 2 of 2

Regards,

QuickTime™ and a
TIFF (Uncompressed) decompressor
are needed to see this picture.

Danuta W. Tuszynska
Attorney at Law

EXHIBIT 0

EXHIBIT P

EXHIBIT P

From: Leonard Gumport [mailto:lgumport@gumportlaw.com]
Sent: Thursday, April 17, 2014 4:00 PM
To: Priamos, Greg; Kane, Maureen
Subject: CONFIDENTIAL - City of Riverside

CONFIDENTIAL

Dear Ms. Kane and City Attorney Priamos:

I connection with the independent investigation that I am conducting on behalf of the City of Riverside, please provide copies the following documents, **provided that** they are public records that the City has the lawful right to produce to me:

1) Emails that were sent on the City's computer system and/or servers and that were from Council member Michael Soubirous (or his Field Representative) anytime during January 15, 2014 through March 15, 2014 on any of the following the two subjects:

- (a) conduct of the RPD in dealing with panhandlers and/or vagrants and/or City Parks; and
- (b) employment status of Chief of Police Sergio Diaz.

EXHIBIT P

5/20/2014

Only emails by Council member Soubirous (or his Field Representative) to the following recipients are requested:

- (i) other Council members (and their Field Representatives),
- (ii) City Manager Scott Barber,
- (iii) Chief of Police Sergio Diaz, and
- (iv) RPOA President Brian Smith.

2) Records of Council meetings anytime during January 15, 2014 through March 15, 2014 at which any of the three subjects was discussed or voted on:

- (a) conduct of the RPD in dealing with panhandlers and/or vagrants and/or City Parks;
- (b) employment status of Chief of Police Sergio Diaz;
- (c) employment status of City Manager Scott Barber.

Please note that the two requests are both limited to a 60-day time period.

Please do not infer from this email that the requested documents reflect any misconduct by anyone. The reason for my request is to facilitate my doing a thorough job in conducting an independent investigation.

Before taking any action on this request, even though this request only seeks records that the City has the right to produce to me, please bring this request to the attention of Council member Soubirous (and his counsel) before taking any action.

If you have any questions, please call or write.

Thanks.

Sincerely,

Leonard L. Gumport
Gumport | Mastan
550 S. Hope St., Ste. 1765
Los Angeles, CA 90071-2627
(213) 452-4901

EXHIBIT P

5/20/2014

EXHIBIT Q

EXHIBIT Q

April 21, 2014

VIA FACSIMILE
(951) 781.1232

Danuta W. Tuszynska
Law Offices of Danuta W. Tuszynska
7121 Magnolia Avenue
Riverside, CA 92504

Re: *Councilmember Mike Soubirous Investigation*
Client-Matter: RI085/057

Dear Ms. Tuszynska:

This shall serve as a confirmation of our telephone conversation this afternoon. During our conversation, I advised that this office was serving as special counsel to the City with regards to the referenced investigation. I also advised that the investigator in this matter, Mr. Leonard Gumpert, wanted to schedule Mr. Soubirous for an interview on April 24th, 2014. You stated that you would contact Mr. Soubirous and let me know if he would agree to the interview. Finally, you inquired as to whether Mr. Soubirous would be receiving any further details regarding the investigation and the specific allegations that initiated the investigation. I advised that there is no legal or statutory basis for providing Mr. Soubirous with any specifics concerning the allegations and that he has already been provided with the general nature of the allegations. I also stated that you could be present at the interview in your capacity as Mr. Soubirous' legal counsel.

Please be advised that the investigator has also requested that the City provide to him certain documents relating to Mr. Soubirous. Accordingly, the City is currently gathering the following documents:

1. Emails that were sent on the City's computer system and/or servers and that were from Council member Michael Soubirous (or his Field Representative) anytime during January 15, 2014 through March 15, 2014 regarding either of the following two subjects:

- (a) Conduct of the Riverside Police Department (RPD) in dealing with panhandlers and/or vagrants and/or City Parks; and
- (b) the employment status of Chief of Police Sergio Diaz.

Danuta W. Tuszynska
Re: *Councilmember Mike Soubirous Investigation*
April 21, 2014
Page 2

With regards to this request, the City is only searching for emails by Mr. Soubirous (or his Field Representative) to or between other Council members (and their Field Representatives), City Manager Scott Barber, Chief of Police Sergio Diaz, and Riverside Police Officers Association President Brian Smith.

2. Records of Council meetings anytime during January 15, 2014 through March 15, 2014 at which any of the three subjects was discussed or voted on:

- (a) Conduct of the RPD in dealing with panhandlers and/or vagrants and/or City Parks;
- (c) employment status of Chief of Police Sergio Diaz;
- (d) employment status of City Manager Scott Barber.

Both categories of requests are limited to a 60-day time period.

Please let me know if you have any questions and I await your response as to whether Mr. Soubirous is available for his interview on April 24th.

Very truly yours,

LIEBERT CASSIDY WHITMORE



Mark H. Meyerhoff

MHM:js

TRANSMISSION VERIFICATION REPORT

TIME : 04/21/2014 15:37
 NAME : LIEBERT CASSIDY
 FAX : 310-568-9354
 TEL : 310-981-2000
 SER.# : M7J590011

DATE, TIME	04/21 16:36
FAX NO. /NAME	19517811232
DURATION	00:00:31
PAGE(S)	03
RESULT	OK
MODE	STANDARD
	ECM

LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION
 6033 West Century Boulevard, 5th Floor
 Los Angeles, California 90045
 Tel: 310.981.2000 • Fax: 310.337.0837
 www.lcwlegal.com

FAX COVER SHEET

DATE: April 21, 2014

CLIENT-MATTER NUMBER: R1085/057

To:

NAME:	FAX NO.:	PHONE NO.:
Danuta W. Tuszyńska	951.781.1232	951.781.1233

FROM	Mark H. Meyerhoff	PHONE	310.981.2026
RE:	<i>Councilmember Mike Souders Investigation</i>		

NUMBER OF PAGES WITH COVER PAGE: 3	
Original(s):	
☒ Will not follow ☐ Will follow by U.S. Mail ☐ Will follow by overnight mail	

Message:

Please see attached correspondence. Thank you.

EXHIBIT 0

EXHIBIT

R

EXHIBIT R

From: "Mark H. Meyerhoff" <mmeyerhoff@lcwlegal.com>
To: "lgumport@gumportlaw.com" <lgumport@gumportlaw.com>
Subject: FW: Response from Tuszynska re Soubrious investigation -- RI085/057
Date: Wed, 23 Apr 2014 16:59:17 +0000

Dear Leonard:

Attached is the short email I received from Ms. Tuszynska advising that Mr. Soubrious declines to be interviewed in this matter. This was a response to the letter that I sent you a few minutes ago.

From: tuszynskalaw@aol.com [<mailto:tuszynskalaw@aol.com>]
Sent: Tuesday, April 22, 2014 2:05 PM
To: Mark H. Meyerhoff
Subject: Re: Test

Good afternoon. Councilman Soubrious declines to be interviewed by Mr. Gumport.

This email message has been delivered safely and archived online by [Mimecast](#).

EXHIBIT R

5/20/2014

EXHIBIT S

EXHIBIT S

From: "Mark H. Meyerhoff" <mmeyerhoff@lewlegal.com>
To: "lgumport@gumportlaw.com" <lgumport@gumportlaw.com>, "Priamos, Greg (GPRIAMOS@riversideca.gov)" <GPRIAMOS@riversideca.gov>
Subject: FW: Councilmember Soubirous -- RI085/057
Date: Fri, 9 May 2014 04:53:22 +0000

Dear Mr. Gumport:

Attached is an email I received from Ms. Tuszynska. As you can see she is willing to allow Mr. Soubirous to answer written questions pursuant to your investigation. If you believe written questions will assist your investigation, we can discuss Ms. Tuszynska's offer. Please feel free to contact me. Thank you.

From: tuszynskalaw@aol.com [mailto:tuszynskalaw@aol.com]
Sent: Thursday, May 08, 2014 1:54 PM
To: Mark H. Meyerhoff
Subject: Councilmember Soubirous

Good afternoon. This is to confirm that I left you a phone message this afternoon at 1:00 indicating that Councilman Soubirous is willing to answer written questions submitted to him by Mr. Gumport.
Danuta Tuszynska

This email message has been delivered safely and archived online by Mimecast.

EXHIBIT S

5/20/2014

EXHIBIT T

EXHIBIT T

Date: Fri, 09 May 2014 10:34:19 -0700
From: LENNY (Leonard Gumpert)
To: "Mark H. Meyerhoff" <mmeyerhoff@lcwlegal.com>
cc: "Priamos, Greg(GPRIAMOS@riversideca.gov)" <GPRIAMOS@riversideca.gov>, sadams@riversideca.gov
Subject: bcc: CONFIDENTIAL --Councilmember Soubirous -- RJ085/057

Dear Mr. Meyerhoff:

Thank you for your email (below).

From Councilmember Soubirous, I would very much appreciate his written answers to these questions:

- 1) During 1/15/14 through 3/15/14, did Councilmember Soubirous cast a public or private vote on the City Council to terminate the employment of City Manager Scott Barber?
- 2) During 1/15/14 through 3/15/14, did Councilmember Soubirous cast a public or private vote on the City Council to terminate the employment of Chief of Police Sergio Diaz?
- 3) During 1/15/14 through 3/15/14, did Councilmember Soubirous discuss or mention terminating the employment of City Manager Scott Barber with any subordinate of Scott Barber, including any officers or employees of Riverside Police Department?
- 4) During 1/15/14 through 3/15/14, did Councilmember Soubirous discuss or mention terminating the employment of Chief of Police Sergio Diaz with any subordinate of Scott Barber, including any officers or employees of Riverside Police Department?
- 5.A) During February 2014 (including without limitation, on 2/14/14), did Councilmember Soubirous have any face-to-face discussions with Brian Smith of the RPD?
- 5.B) During any such February discussion(s) with Brian Smith, what if anything was said by Councilmember Soubirous about the employment status of City Manager Scott Barber?
- 5.C) During any such February discussion(s) with Brian Smith, what if anything was said by Councilmember Soubirous about the job performance of City Manager Scott Barber?
- 5.D) During any such February discussion(s) with Brian Smith, what if anything was said by Councilmember Soubirous about whether any votes had been or would be taken to terminate the employment of City Manager Scott Barber?
- 5.E) During any such February discussion(s) with Brian Smith, what if anything was said by Councilmember Soubirous about the employment status of Chief of Police Sergio Diaz?
- 5.F) During any such February discussion(s) with Brian Smith, what if anything was said by Councilmember Soubirous about the job performance of Chief of Police Sergio Diaz?
- 5.G) During any such February discussion(s) with Brian Smith, what if anything was said by Councilmember Soubirous about whether any votes had been or would be taken to terminate the employment of Chief of Police Sergio Diaz?

EXHIBIT T

5/20/2014

5.H) During any such February discussion(s) with Brian Smith, what if anything was said by Councilmember Soublirous about any vote to provide private guards in City parks or to pay overtime to the RPD?

Written answers to the foregoing questions would be appreciated as soon as possible.

Thanks.

Sincerely,

Leonard L. Gumport
Gumport | Mastan

On Thursday, May 08, 2014 9:53 PM, Mark H. Meyerhoff wrote:

Dear Mr. Gumport:

Attached is an email I received from Ms. Tuszynska. As you can see she is willing to allow Mr. Soublirous to answer written questions pursuant to your investigation. If you believe written questions will assist your investigation, we can discuss Ms. Tuszynska's offer. Please feel free to contact me. Thank you.

From: tuszynskalaw@aol.com [mailto:tuszynskalaw@aol.com]

Sent: Thursday, May 08, 2014 1:54 PM

To: Mark H. Meyerhoff

Subject: Councilmember Soublirous

Good afternoon. This is to confirm that I left you a phone message this afternoon at 1:00 indicating that Councilman Soublirous is willing to answer written questions submitted to him by Mr. Gumport.

Danuta Tuszynska

This email message has been delivered safely and archived online by Mimecast.

EXHIBIT T

5/20/2014

EXHIBIT U

EXHIBIT U

Chapter 2.08

ADMINISTRATIVE OFFICES AND DEPARTMENTS.

Sections:

- 2.08.010 Title - Authority of City Manager.
2.08.020 Offices, Departments, divisions of departments, and office/department heads established.
2.08.030 City Manager Pro Tempore.

Section 2.08.010 Title—Authority of City Manager.

This chapter shall be known as the administrative regulations of the City and may be referred to as such. The departments, divisions of departments, and department heads, excepting the City Attorney, City Clerk and their respective offices, set out in the chapter shall constitute the administrative organizational structure of the City, and shall be under the control and direction of the City Manager, in accordance with the provisions of the City Charter. (Ord. 7182 § 5, 2012; Prior code § 2.18)

Section 2.08.020 Offices, Departments, divisions of departments, and office/department heads established.

The following offices, departments, and department heads are established:

- A. The City Manager's Office, the head of which shall be the City Manager;
- B. The City Clerk's Office, the head of which shall be the City Clerk;
- C. The City Attorney's Office, the head of which shall be the City Attorney;
- D. The Community Development Department, the head of which shall be the Community Development Director;
- E. The Finance Department, the head of which shall be the Finance Director;
- F. The Police Department, the head of which shall be the Chief of Police;
- G. The Fire Department, the head of which shall be the Fire Chief;
- H. The Public Works Department, the head of which shall be the Public Works Director;
- I. The Public Utilities Department, the head of which shall be the Public Utilities General Manager;
- J. The Parks, Recreation and Community Services Department, the head of which shall be the Parks, Recreation and Community Services Director;
- K. The Library Department, the head of which shall be the Library Director;
- L. The Museum Department, the head of which shall be the Museum Director;
- M. The Airport Department, the head of which shall be the Airport Director;
- N. The General Services Department, the head of which shall be the General Services Director;
- O. The Human Resources Department, the head of which shall be the Human Resources Director;
- P. The Innovation and Technology Department, the head of which shall be the Chief Innovation Officer. (Ord. 7186 § 1, 2013; Ord. 7182 § 5, 2012; Ord. 6832 § 1, 2005; Ord. 6806 § 3, 2005; Ord. 6683 § 1, 2003; 6140 § 1, 1994; Ord. 6064 § 1, 1993; Ord. 5596 § 1, 1987; Ord. 5591 § 1, 1987; Ord. 5530 § 1, 1987; Ord. 5119 § 1, 1983; Ord. 4931 § 1, 1981; Ord. 4164 § 1, 1974; Ord. 3815 § 1, 1971; prior code § 2.19)

EXHIBIT V

EXHIBIT V



City of Riverside, California
Human Resources Policy and Procedure Manual

Approved:

Alonda Stewart
Human Resources Director

Belinda Jackson
City Manager

Number: III-6 Effective Date: 06/13

SUBJECT: HARASSMENT FREE WORKPLACE

PURPOSE:

To establish a policy regarding discriminatory and/or sexual harassment in City employment, and to set forth procedural guidelines for resolution of complaints of harassment.

This policy applies to all phases of the employment relationship, including recruitment, testing, hiring, upgrading, promotion/demotion, transfer, layoff, termination, rates of pay, benefits and selection for training.

This policy applies to all officers and employees of the City, including, but not limited to, full-time and part-time employees, per diem employees, temporary employees and persons working under contract for the City.

DEFINITIONS:

Harassment - May consist of offensive verbal, physical or visual conduct when such conduct is based on or related to an individual on the basis of race, color, ancestry, religious creed, disability, medical condition, age (over 40), marital status, sexual orientation or any other protected classification under applicable law and:

- a. Submission to the offensive conduct is an explicit or implicit term or condition of employment;
- b. Submission to or rejection of the offensive conduct forms the basis for an employment decision affecting the employee; or
- c. The offensive conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile or offensive working environment.

Examples - Examples of what may constitute prohibited harassment include, but are not limited to, the following:

- a. Kidding or joking about sex or membership in one of the protected classifications;
- b. Hugs, pats and similar physical contact;
- c. Assault, impeding or blocking movement, or any physical interference with

normal work or movement;

- d. Cartoons, posters and other materials that are derogatory, offensive, inappropriate and refer to sex or membership in one of the protected classifications;
- e. Threat intended to induce sexual favors;
- f. Continued suggestions or invitations to social events outside the workplace after being told such suggestions are unwelcome;
- g. Degrading words or offensive terms of a sexual nature or based on the individual's membership in one of the protected classifications; and/or
- h. Prolonged staring or leering at a person.

POLICY:

1. Procedure

Any employee who believes that he or she has been the victim of sexual or other prohibited harassment by co-workers, supervisors, clients or customers, visitors, vendors or others should immediately notify his or her supervisor, or, in the alternative, the Human Resources Department, depending on which individual the employee feels most comfortable in contacting.

Additionally, supervisors who observe or otherwise become aware of harassment that violates this policy have a duty to take steps to investigate and remedy such harassment and prevent its recurrence.

Any employee who believes that he or she has been the victim of sexual or other prohibited harassment by co-workers, supervisors, clients or customers, visitors, vendors or others may file a complaint with the California Department of Fair Employment and Housing ("DFEH") or the Equal Employment Opportunity Commission ("EEOC"). The phone numbers for these agencies are located in the phone book under government agencies.

2. Investigation

Upon the filing of a complaint with the City, the complainant will be provided with a copy of this policy and a complaint form. The Human Resources Department is the department designated by the City to investigate complaints of harassment. The Human Resources Director may, however, delegate the investigation at his/her discretion. In the event the harassment complaint is against the Human Resources Director, an investigator shall be appointed by the City Manager.

Charges filed with either the California Department of Fair Employment and Housing or the Equal Employment Opportunity Commission are investigated by that agency; however, the Human Resources Department may also conduct a separate investigation.

3. Internal Documentation Procedure

The investigator shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator by the person complaining of harassment, witnesses interviewed during the investigation, the person against whom the complaint of harassment was made and any other person contacted by the investigator in connection with the investigation. The investigator's notes shall be made at the time the verbal interview is in progress. Any other documentary evidence shall be retained as part of the record of the investigation. Upon completion of the investigation, the results shall be given to the Human Resources Director. A copy of the completed investigation will be given to the City Attorney. The complainant will be provided written notification that an investigation has been conducted, and, if necessary, appropriate action will be taken to remedy the situation.

Based on the report and any other relevant information, the investigator from Human Resources shall, within a reasonable period of time, determine whether the conduct of the person against whom a complaint has been made constitutes harassment. In making that determination, the investigator shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct in question; the context in which the conduct, if any, occurred; and the conduct of the person complaining of harassment. The determination of whether harassment occurred will be made on a case-by-case basis by the investigator.

4. Confidentiality

All records and information relating to the investigation of any alleged harassment and resulting disciplinary action shall be confidential, except to the extent disclosure is required by law, as part of the investigatory or disciplinary process, or as otherwise reasonably necessary.

5. Remedies

If the Human Resources Department has determined that the complaint of harassment is founded, the Human Resources Director shall take immediate and appropriate disciplinary action consistent with the requirements of law any personnel rules and regulations pertaining to employee discipline. Other steps may be taken reasonably necessary to prevent recurrence of the harassment and to remedy the complainant's loss, if any.

Disciplinary action shall be consistent with the nature and severity of the offense, the rank of the harassing party, and any other factors relating to the fair and efficient administration of the City's operations.

In the event a complaint is filed with the Department of Fair Employment and Housing or the Equal Employment Opportunity Commission, and they find that the complaint has merit, either the Department of Fair Employment and Housing or the Equal Employment Opportunity Commission will attempt to negotiate a settlement between the parties. If not settled, the Department of Fair Employment and Housing may issue a determination on the merits of the case.

Where a case is not settled and the Department of Fair Employment and Housing finds a violation to exist, they may prosecute the charging party's case before the Fair Employment and Housing Commission. Legal remedies available through this Commission for a successful claim by an applicant, employee or former employee

include possible reinstatement to a former job; award of a job applied for, back pay; front pay; attorney's fees; and appropriate circumstances, actual damages and/or administrative fines.

In the alternative, the Commission may grant the employee permission to withdraw the case and pursue a private lawsuit seeking similar remedies.

6. Retaliation

Retaliation against anyone for opposing conduct prohibited by this policy or for filing a complaint with or otherwise participating in an investigation, proceeding or hearing conducted by the City, the Department of Fair Employment and Housing or the Equal Employment Opportunity Commission is strictly prohibited by the City and state regulations. It may subject the offending person to, among other things, disciplinary action, up to and including, termination of employment.

7. Employee Obligation

Employees are not only encouraged to report instances of harassment; they are obligated to report instances of harassment.

Employees are obligated to cooperate in every investigation of harassment, including, but not necessarily limited to:

- a. Coming forward with evidence, both favorable and unfavorable to a person accused of harassment; and
- b. Fully and truthfully making a written report or verbally answering questions when required to do so during the course of a City investigation of alleged harassment.

Knowingly, falsely accusing someone of harassment or otherwise knowingly giving false or misleading information in an investigation of harassment shall be grounds for disciplinary action, up to and including, termination of employment.

PROCEDURE:

Responsibility	Action
Employee	1. Notifies supervisor and/or Human Resources Department of complaint.
Supervisor	2. Notifies Human Resources Department of complaint.
Human Resources Staff	3. Obtains factual written statement of the complaint and presents it to the Human Resources Director.
Human Resources Director	4. Assigns Human Resources staff to conduct investigation of complaint, or approves an investigation.

Number: III-6 Effective Date: 06/06

Human Resources Staff/Investigator

5. Conducts investigation by interviewing complainant, accused, witnesses and supervisor as appropriate.

Human Resources Staff

6. Makes recommendations to Human Resources Director as to disposition of complaint.

Human Resources Director

7. Reviews factual information collected and recommendations made.
8. Takes and/or authorizes appropriate and timely action.

EXHIBIT

W

EXHIBIT W

CODE OF ETHICS AND CONDUCT GUIDE

What is the purpose of the Code?

The intent of the Code of Ethics and Conduct is to achieve fair, ethical and accountable local government for the City of Riverside.

What is contained in the Code?

A Preamble is followed by the specific Code provisions which include discussion of the purpose, scope, core values, implementation, monitoring, oversight, enforcement and sanctions.

What are the core values contained in the Code?

The Code contains eight aspirations of the citizens of Riverside.

- ① To create a government that is trusted by everyone
- ② To make decisions that are unbiased, fair and honest
- ③ To use public office for service to the public good and not for personal or private gain
- ④ To ensure that everyone is treated with respect and in a just and fair manner
- ⑤ To create a community that affirms the value of diversity
- ⑥ To ensure that all public decisions are well informed, independent and in the best interests of the City of Riverside
- ⑦ To maintain a nonpartisan and civic-minded local government
- ⑧ To ensure that all officials are adequately prepared for the duties of their office
- ⑨ To make a diligent effort to attend all regular meetings

How did the Code come about?

In 2004, a City Council-appointed Charter Review Committee recommended 12 charter amendments be presented to the qualified electors of Riverside. The City Council concurred and placed all measures on the ballot.

On November 2, 2004, Measure DD was approved by the voters of the City of Riverside adding Section 202 to the Riverside City Charter. Section 202 requires adoption of a Code of Ethics and Conduct for elected officials and members of appointed boards and commissions.



City of Arts & Innovation

EXHIBIT W

The City Council formed an 11-member committee to develop and present a Code for City Council consideration. The committee submitted its draft Code of Ethics and Conduct to the City Council in June of 2005 which was subsequently adopted by the City Council on July 12, 2005. The Code is reviewed and may be amended annually.

Who is covered by the Code?

The Mayor, City Council and all members of appointed boards, commissions and committees for the City of Riverside are covered by the Code.

When does the Code apply?

The Code is applicable to the Mayor and Members of the City Council at all times and for all other officials only when engaged in the performance of his/her duties and responsibilities as a local government official.

How do I file a complaint?

Submit the complaint on the form available from the City Clerk's Office, within 180 days of discovery of an alleged violation, to the City Clerk, 3900 Main Street, Riverside, CA, 92522.

When will the complaint be heard?

For issues involving members of City boards, commissions, and committees, informal resolution through the Chair may be requested. If not resolved and for all issues involving elected officials, the matter will be scheduled as soon as practicable before an adjudicating body consisting of five Chairs of City boards and commissions selected by lot.

If I file a complaint, how will I know the outcome?

The City Clerk will notify the complaint filer of all hearings and the decision of the adjudicating body. The hearings are open to the public. The decision of the adjudicating body may be appealed to the City Council by the complainant or the City official against whom the complaint was filed. The hearing and appeal process shall be concluded, if at all possible, within 90 days.

How do I obtain information on prior complaints and resolution?

Complaints will be retained for at least two years. Visit the City Clerk's Office at 3900 Main Street to review the files, call 826-5557 or e-mail city_clerk@riversideca.gov

Where do I find a copy of the Code?

The current Code is adopted and amended by Resolution of the City Council and can be found on the City Clerk's Web page. You may also obtain a copy by contacting the City Clerk's Office at 826-5557 or by e-mail at city_clerk@riversideca.gov

What role does the public play in implementation of the Code?

The public is encouraged to participate in the annual review of the City's Code of Ethics and Conduct. In September of each year the Mayor, City Manager, City Attorney and Chairs of all boards and commissions meet with the City Council Governmental Affairs Committee to assess the effectiveness of the Code and its application. A report is forwarded to the City Council which may include recommendations for the inclusion of new values or procedures. The City Council will make an independent evaluation of the effectiveness of the Code generally in September of each year.

Where can I get further information?

Visit the City's Web site at:
RiversideCa.gov/city_clerk

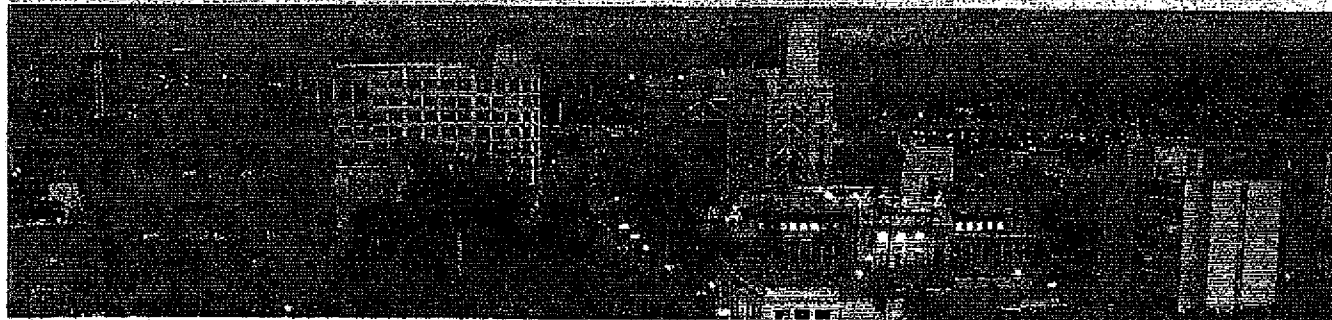
Contact the City Clerk's Office at
826-5557 or city_clerk@riversideca.gov

Additional resources:

Calif. Attorney General: caag.state.ca.us

Fair Political Practices Commission: fppc.ca.gov

Institute of Local Government: cal-ig.org



EXHIBIT

W

1 RESOLUTION NO. 22461

2 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
3 RIVERSIDE, CALIFORNIA, ESTABLISHING A CODE OF ETHICS
4 AND CONDUCT FOR ELECTED OFFICIALS AND MEMBERS OF
5 APPOINTED BOARDS, COMMISSIONS AND COMMITTEES, AND
6 REPEALING RESOLUTION NO. 22318.

7 WHEREAS, on November 2, 2004, Measure DD was approved by the voters of the City
8 of Riverside, thereby adding Section 202 to the Riverside City Charter; and

9 WHEREAS, the City Council desires to further amend the Code of Ethics and Conduct.

10 NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Riverside
11 that the following shall be the Code of Ethics and Conduct for all elected officials and members
12 of appointed boards, commissions, and committees for the City of Riverside.

13 I

14 PREAMBLE

15 The people of the City of Riverside, at an election held on November 2, 2004, approved
16 an amendment to the City Charter of the City of Riverside which states: "The City of Riverside
17 shall adopt a Code of Ethics and Conduct for elected officials and members of appointed boards,
18 commissions, and committees which shall assure public confidence in the integrity of local
19 government and its effective and fair operation." To assure public confidence in and ensure
20 effective and fair operation of the local government of the City of Riverside the following Code
21 of Ethics and Conduct is hereby adopted by the City of Riverside.

22 II

23 CODE PROVISIONS

24 A. Purpose

25 The purpose of this code is to achieve fair, ethical, and accountable local government for
26 the City of Riverside. The people of Riverside expect public officials, both elected and
27 appointed, to comply with both the letter and the spirit of the laws of the State of California, the
28 United States of America and the Charter, Municipal Code, and established policies of the City
of Riverside affecting the operations of local government. In addition, public officials are

1 expected to comply with the provisions of this Code of Ethics and Conduct established pursuant
2 to the expressed will of the people. All persons covered by this code will aspire to meet the
3 highest ethical standards in the conduct of their responsibility as an elected or appointed official
4 of the City of Riverside.

5 B. Scope

6 The provisions of this Code of Ethics and Conduct shall apply to the Mayor and members
7 of the City Council, and to all members of the boards, commissions, and committees appointed
8 by the City Council or the Mayor or the Mayor and City Council, including any *ad hoc*
9 committees. The provisions of this code shall also apply to all members of committees
10 appointed by individual members of the City Council or by Department Heads.

11 Further, the provisions of this code shall apply to the Mayor and Members of the City
12 Council at all times during their term of office as elected officials of the City of Riverside.
13 However, the provisions of this code shall apply to the appointed officials only while they are
14 acting in their official capacities and in the discharge of their duties.

15 C. Core Values

16 The people of the City of Riverside share a set of core values that constitute the guiding
17 principles for the establishment of this code. These core values are expressed in the following
18 aspirations:

- 19 (1) To create a government that is trusted by everyone.
- 20 (2) To make decisions that are unbiased, fair, and honest.
- 21 (3) To use public office for service to the public good and not for personal or private
22 gain.
- 23 (4) To ensure that everyone is treated with respect and in a just and fair manner.
- 24 (5) To create a community that affirms the value of diversity.
- 25 (6) To ensure that all public decisions are well informed, independent, and in the best
26 interests of the City of Riverside.
- 27 (7) To maintain a nonpartisan and civic minded local government.
- 28 (8) To ensure that all officials are adequately prepared for the duties of their office.

1 (9) To ensure that members of appointed boards, commissions, and committees make a
2 diligent effort to attend all regularly scheduled meetings of their board, commission, or
3 committee.

4 (10) To ensure that neither the Mayor nor any member of the City Council unduly
5 influence members of appointed boards, commissions and committees.

6 Based upon these core values, it is the City of Riverside's intent to establish through this
7 Code of Ethics and Conduct, a level of reasonable expectations of behavior for elected and
8 appointed public officials.

9 D. Core Values Defined

10 (1) Creating Trust of Local Government.

11 The elected and appointed officials of the City of Riverside shall aspire to operate the
12 City government and exercise their responsibilities in a manner which creates a trust in their
13 decisions and the manner of delivery of programs through the local government. The officials
14 shall aspire to create a transparent decision making process by providing easy access to all public
15 information about actual or potential conflicts between their private interests and their public
16 responsibilities. The officials shall aspire to make themselves available to the people of the city
17 to hear and understand their concerns. They shall aspire to make every effort to ensure that they
18 have accurate information to guide their decisions and to share all public information with the
19 community to ensure the community's understanding of the basis of the officials' decisions.

20 (2) Making Unbiased, Fair, and Honest Decisions.

21 The elected and appointed officials of the City of Riverside shall aspire to ensure that
22 their decisions are viewed as unbiased, fair, and honest. They shall strive to avoid participation in
23 all decisions which create a real or perceived conflict of interest and to disclose any personal
24 interest that would be perceived to be in conflict with the fair and impartial exercise of their
25 responsibilities. They will not accept gifts or favors which might compromise the independence
26 of their judgments or actions or give the appearance of being compromised.

27 (3) Use of Office for Service to the Public Good and Not for Personal or Private
28 Gain.

1 The elected and appointed officials of the City of Riverside have a responsibility to use
2 the benefits of public office exclusively for the public purpose for which it was created. Elected
3 and appointed officials shall not use the Office for personal or private gain except for as allowed
4 by statute. Therefore, acceptances of gifts shall otherwise be consistent with the requirements
5 and limitations allowable by state law. Elected and appointment officials shall refrain from the
6 following: (1) accepting gifts or favors that may compromise independent judgment or give the
7 appearance of compromised judgment; (2) using official title for matters other than the official
8 conduct of the office; and (3) engaging in decisions which would affect the level of
9 compensation received for service except as otherwise required or allowable by law.

10 (4) Treating Everyone with Respect and in a Just and Fair Manner.

11 The elected and appointed officials of the City of Riverside have a responsibility to make
12 extraordinary attempts to treat all people, including city staff, in a manner which would be
13 considered just and fair. They shall strive to value and encourage input from members of the
14 community and encourage open and free discussion of public issues. They shall strive to have all
15 persons treated with respect as they come before the body on which they serve. They shall aspire
16 to create an atmosphere of genuine interest in the point of view expressed by members of the
17 community even if it differs from their own.

18 (5) Creating a Community that Affirms the Value of Diversity.

19 The elected and appointed officials of the City of Riverside shall aspire to recognize and
20 affirm the value of all persons, families, and communities within the City of Riverside. They will
21 encourage full participation of all persons and groups, be aware and observe important
22 celebrations and events which reflect the values of our diverse population, and provide assistance
23 for those who find it difficult to participate due to language barriers or disabilities.

24 (6) Ensuring that all Public Decisions are Well Informed, Independent, and in the
25 Best Interests of the City of Riverside.

26 The elected and appointed officials of the City of Riverside will encourage and support
27 research and information gathering from verifiable sources. They will seek to ensure that
28 information provided by the City Government to the public is accurate and clear. They will

1 ensure that all information utilized in the decision making process, except that which by law is
2 confidential, will be shared with the public.

3 (7) Maintaining a Nonpartisan and Civic Minded Local Government.

4 The elected and appointed officials of the City of Riverside shall affirm the value of a
5 nonpartisan council-manager form of government.

6 (8) Ensuring that All Officials are Prepared for the Exercise of their Duties.

7 The elected and appointed officials shall commit to participation in all orientation and
8 training sessions which are presented to ensure our full preparation for the exercise of their
9 public duties.

10 (9) Ensuring Impartiality When Acting in a Quasi-Judicial Capacity.

11 Whenever the members of a board, commission or committee participate in a matter, the
12 subject of which will be subsequently heard by the City Council, the members shall not contact
13 the Mayor and/or any members of the City Council for the purpose of influencing the City
14 Council's decision.

15 (10) Ensuring Against Undue Influence.

16 Neither the Mayor nor any member of the City Council shall contact a board, commission
17 or committee member at any time for the purpose of influencing that member with respect to the
18 discharge of his/her official duties.

19 III

20 IMPLEMENTATION OF THE CODE

21 A. Implementation, Monitoring and Oversight

22 Monitoring and oversight are essential to ensure this Code of Ethics and Conduct is
23 effectively implemented. The objectives of this implementation effort shall include:

24 All persons covered by this code must be aware of its provisions.

25 All persons covered by this code shall have resources available to clarify expectations in
26 situations where they feel a potential area of noncompliance may exist.

27 All bodies covered by the code shall adopt rules of procedure which include the
28 provisions of this code.

1 Annual review shall be conducted to ensure the code is being applied in a fair and
2 effective manner.

3 Annual review shall be conducted by the City Council at a regular meeting.

4 To achieve these objectives the following mechanisms should be utilized.

5 1. All new members of the City Council, upon election or reelection, and members
6 of boards, commissions, and committees appointed by the Mayor, City Council, Mayor and City
7 Council, individual members of the City Council, or Department Head, upon appointment or
8 reappointment, shall be given a copy of the code and required to affirm in writing they have
9 received the code and understand its provisions. (See Attachment A).

10 2. All new members of the City Council and boards, commissions, and committees shall
11 be provided a training session which shall clarify the provisions and application of the code.
12 These sessions shall be coordinated by the City Manager, City Attorney and City Clerk through
13 the Mayor's Office.

14 3. The City Attorney, or his or her designee, shall serve as a resource person to those
15 persons covered by the code to assist them in determination of appropriate actions consistent
16 with the code.

17 4. Complaints from members of the public regarding elected or appointed officials shall
18 be submitted on the complaint form available from the City Clerk. Complaints concerning
19 Section II, D(4), herein, shall be presented by the person who claims to be treated in a manner
20 inconsistent with that Section. Complaints shall be filed with the City Clerk within 180 days of
21 discovery of an alleged violation of the Code of Ethics and Conduct. "Discovery" is defined as
22 when the complainant knew or reasonably should have known or discovered evidence of the
23 alleged violation through the exercise of reasonable diligence.

24 Upon receipt of the complaint form, the City Clerk and City Attorney will review the
25 submittal for completeness only. Any issue of timeliness will be resolved by the adjudicating
26 body, and, if there is an appeal, by the City Council. Once the filing is deemed complete, the
27 City Clerk will schedule the complaint concerning the elected official for a hearing before the
28 adjudicating body as soon as practicable and notify both parties. For complaints against

1 members of boards, commissions and committees, the City Clerk will forward the matter to the
2 appropriate board, commission or committee chair for informal resolution if so requested by the
3 complainant. If the matter is not resolved, or if the complainant did not request to seek an
4 informal resolution, the City Clerk will schedule the complaint for a hearing before the
5 adjudicating body as soon as practicable and notify both parties.

6 The adjudicating body shall consist of five members and one alternate chosen from the
7 chairpersons of the City's boards and commissions selected by lot by the City Clerk. No
8 chairperson shall serve who is from the same ward as the elected official to which the complaint
9 concerns. The City Clerk will notify both parties of the hearing date, place and time at least
10 fourteen (14) days in advance of the hearing. The adjudicating body shall hear all timely filed
11 complaints and attempt to resolve each complaint on its merits.

12 Following the hearing, the City Clerk will notify both parties, in writing, of the
13 adjudicating body's decision and the appeal process. The decision of the adjudicating body may
14 be appealed by either party by submitting such appeal in writing to the City Clerk within seven
15 (7) days of the adjudicating body's decision. If no appeal is received within seven (7) days, the
16 matter is concluded. If appealed within seven (7) days, the City Clerk will schedule the appeal
17 before the City Council and notify both parties at least fourteen (14) days in advance of the
18 hearing.

19 The record on appeal will consist of a transcript of the hearing before the adjudicating
20 body as well as all documentary evidence submitted at the hearing. No new evidence will be
21 considered. The City Council will review the record and will disturb the adjudicating body's
22 decision only upon a showing of clear error or abuse of discretion.

23 The City Clerk will notify both parties in writing of the City Council's findings and
24 determination. The determination of the City Council is final and there is no further right to
25 appeal. The hearing and appeal process shall be concluded if at all possible, within ninety (90)
26 days of the complaint being determined to be complete. Complaints and any supporting
27 documentation shall be retained for a period of at least two (2) years.

28 5. The chair of each body covered by this code is responsible to intervene and provide

1 appropriate guidance to members and, if need be, communicate concerns to the City Council.

2 6. In September of each year, the Mayor, the City Manager, the City Attorney and the
3 chairs of all Boards and Commissions shall meet with the Governmental Affairs Committee of
4 the City Council to assess the effectiveness of this code and its application. They shall present a
5 report to the City Council which may include recommendations for the inclusion of new values
6 or procedures. Prior to the annual Governmental Affairs Committee meeting, every Board and
7 Commission is encouraged to agendaize and discuss the Code and submit any recommendations
8 for the Committee's consideration.

9 7. In September of each year, the City Council shall hold a public hearing on its
10 evening agenda at a regularly scheduled meeting, and shall review the report and make an
11 independent evaluation of the effectiveness of the Code of Ethics and Conduct.

12 B. Enforcement and Sanctions

13 It is the intention that this code be self enforcing. However, it is recognized that there
14 may be instances where even after receiving guidance and counsel, a person may continue to
15 violate the Code's provisions. In those cases sanctions would apply and would occur in a public
16 meeting.

17 (1) Mayor - City Council

18 The sanctions that would apply by action of the City Council would be:

19 (a) Public censure of a member.

20 The ultimate sanction of removal from office would lie in the hands of the
21 electorate.

22 (2) Boards and Commissions

23 (a) Public censure by the Board or Commission.

24 (b) Public censure by the Mayor and City Council.

25 (c) Removal from office by the Mayor and City Council.

26 Ultimately, the responsibility for the enforcement of this Code of Ethics and Conduct lies
27 with the Mayor and City Council as they represent the will of the people of the City of Riverside.

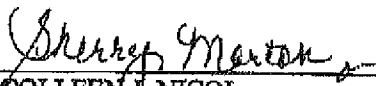
28

1 BE IT FURTHER RESOLVED that Resolution No. 22318 is hereby repealed.

2 ADOPTED by the City Council this 9th day of October, 2012.

3
4
5 
WILLIAM R. BAILEY, III
Mayor Pro Tem of the City of Riverside

6 Attest:

7 
8 COLLEEN J. NICOL
9 City Clerk of the City of Riverside

10 I, Colleen J. Nicol, City Clerk of the City of Riverside, California, hereby certify that the
11 foregoing resolution was duly and regularly adopted at a meeting of the City Council of said City
12 at its meeting held on the 9th day of October, 2012 by the following vote, to wit:

13 Ayes: Councilmembers Gardner, Melendrez, Bailey, Mac Arthur, Hart, and
14 and Adams

15 Noes: Councilmember Davis

16 Absent: None

17 Disqualified: None

18 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of
19 the City of Riverside, California, this 11th day of October, 2012.

20
21 
22 COLLEEN J. NICOL
23 City Clerk of the City of Riverside

24
25
26
27
28 [12-1697]
O:\Cycorn\WPDocs\10027\10014\00136396.DOC

ATTACHMENT A

City of Riverside Code of Ethics and Conduct Officials' Certification

As a newly elected, appointed, or reappointed official of the City of Riverside, California, I herein certify that I have received a copy of the Code of Ethics and Conduct of the City of Riverside, have been offered training and assistance in understanding this Code, and am aware of the provisions of the Code and its application to my responsibilities. Consistent with the Code, I pledge the following in the conduct of my duties.

As an elected/appointed official, I will aspire:

1. To create a government that is trusted by everyone.
2. To make decisions that are unbiased, fair, and honest.
3. To use my public office for service to the public good and not for personal or private gain.
4. To ensure that I treat everyone with respect and in a just and fair manner.
5. To create a community that affirms the value of diversity.
6. To ensure that all public decisions I make are well informed, independent, and in the best interests of the City of Riverside.
7. To maintain a nonpartisan and civic minded local government.
8. To be adequately prepared for the duties of my office.
9. To make a diligent effort to attend all regularly scheduled meetings of the board, commission, or committee.

Signed this _____ day of _____, _____.

Name

Signature

Office

EXHIBIT

W

EXHIBIT X

EXHIBIT X

Send to printer Close window

A City Council Member's Role With Respect to Individual City Employees

BY MELANIE M. POTURICA AND DAVID A. URBAN

Melanie M. Poturica is managing partner at the law firm of Liebert Cassidy Whitmore in Los Angeles, and can be reached at mpoturica@lcwlegal.com. David A. Urban is an attorney with the firm, and can be reached at durban@lcwlegal.com.

About Legal Notes

This column is provided as general information and not as legal advice. The law is constantly evolving, and attorneys can and do disagree about what the law requires. Local agencies interested in determining how the law applies in a particular situation should consult their local agency attorneys.

In the public eye, city council members are at the top of the city's government structure, presiding over large and small bureaucracies that may include police officers, firefighters and many other types of employees charged with serving the public interest. Accordingly, when residents are aggrieved by or interested in the conduct of a particular employee, they may view their council member as that employee's ultimate "boss" or de facto CEO of the city, who can cause the employee to be disciplined or even terminated, and who could certainly take such lesser actions as communicating with the employee's direct supervisor or reviewing the employee's personnel file for information relevant to the issue.

City councils often have appointing authority over the city's highest officials, such as the city manager and city attorney. But otherwise, individual council members and the council as a body have virtually no role with regard to individual city employees. In fact, a council member's role with respect to such employees probably has more in common with that of a city resident (who is an interested "outsider" looking at the city employment structure) than with that of a private company's CEO.

This article describes several legal reasons why city council members' roles with regard to individual employees have such substantial limitations and includes some practical approaches for dealing with individual employees.

Why a City Council Member's Role Is So Limited

City council members are meant to act as part of the council, not individually. A primary reason why council members have virtually no role with regard to individual city employees is that applicable law provides that council members will act as a body, not as individuals. Indeed, the law requires that, with limited exceptions, the council conduct city business only through duly convened meetings "in full view of the public."¹ Thus, when an individual city council member takes unilateral action, his or her conduct may well lose the sanction of the law. The council member may then lose certain protections and immunities from liability, and his or her actions may more easily be rescinded or disputed.²

Legislative immunity is limited. Second, city council members may well *not* have legislative immunity with regard to actions toward individual employees. This is particularly true if the council member acts unilaterally. Typically, when a city council member acts as a legislator, he or she has absolute immunity. But that immunity can be lost when the legislator takes actions outside the "sphere of legitimate legislative activity."³ Accordingly, if a council member takes any

EXHIBIT X

unilateral actions concerning an individual employee, he or she could risk loss of legislative immunity. Even actions taken collectively with the full council might conceivably lack immunity if they relate to specific individuals instead of furthering general city policy.

Under California law, city council members can be liable for invasion of privacy, among other things. Third, the threat of liability presents another factor that limits council member roles toward individual employees. One potential type of liability is for invasion of privacy. In one case, *Braun v. City of Taft*, a city council member was subject to censure by the council for removing documents from a city employee's personnel file and revealing them to the press. Although the court ultimately determined that the particular documents were public records that could legally be disclosed, the court remanded the case to the council to allow it to decide whether the member should suffer censure for other reasons. These possible reasons included his "unilateral decision regarding [the documents'] suitability for disclosure."⁴ Other courts have articulated that public employees can have limited privacy rights in their personnel files.⁵ Employees can thus argue that improper review and/or disclosure should result in personal liability for invasion of privacy.⁶

Other officials, such as city managers, are charged with overseeing city employees. Fourth, council member actions with regard to individual employees may be considered suspect because other high level city officials are officially charged with supervising and/or overseeing individual employees. Most cities appoint city managers to provide overall supervision to a city's human resources function. Because a designated official already has this responsibility, there should be little need for city council members to become involved with individual employees.⁷

Practical Advice for Dealing With Individual Employees

Refrain from doing so, unless it is a part of one's obligations to the city. The most prudent course for a city council member is to refrain from taking action or otherwise becoming involved in any supervisory role, with respect to individual city employees.

Proceed as part of properly convened city council meetings and not individually. If a council member must become involved in decisions with respect to an individual employee, the member should not act unilaterally but should instead act as part of the council. The member should also act pursuant to the requisite formalities that will ensure legislative immunity applies.

The city manager or other appropriate city employee should interface with employees. Tasks such as reviewing employee personnel files, gathering information from supervisors and providing instruction as to particular employees should be done by the city manager or other official charged with overseeing the city's employment structure. This is true even for matters of public interest. If city residents object to the conduct of particular employees, the council can respond by asking the city manager to investigate and take appropriate action regarding the objections. For example, in a small city experiencing resident complaints about rude police officers, the council should itself refrain from taking direct action as to those officers. Instead, it can ask the city manager to investigate and respond to the issue globally. The city manager can then, as part of his or her comprehensive response, take appropriate employment action as to the officers in question.

Comply with the Brown Act. The Ralph M. Brown Act provides that certain official bodies, including city councils, may only act through duly called and regularly held meetings that are open to the public. A city council can conduct closed meetings to discuss certain personnel matters. These include meetings in which the council discusses the "appointment, employment, evaluation of performance, discipline, or dismissal of a public employee ..."⁸ This closed meeting exception, however, may apply only to the council's consideration of employees over whom the council has appointing authority (for example, city managers, city attorneys and others). A California attorney general opinion describes that the closed meeting exception does not apply to a body's consideration of an employee over whom it does not have appointing authority.⁹ Lack of compliance with the Brown Act may lead to adverse legal consequences, which include voiding the actions that the council takes.

EXHIBIT X

Consult with legal counsel. These issues can be complex. Also, situations where council members must take a role with regard to city employees will be rare. Council members should obtain legal advice when such circumstances arise to ensure they undertake their role appropriately.

Footnotes:

1 *Wolfe v. City of Fremont*, 144 Cal. App. 4th 533, 541, 543 (2006); *see also Moreno v. King*, 127 Cal. App. 4th 17, 20 (2005) (city council's termination of finance director was ineffective because of failure strictly to comply with notice provisions of Brown Act).

2 *See Braun v. City of Taft*, 154 Cal. App. 3d 332, 338-40, 347-48 (1984) (considering council member's censure for unilaterally disclosing personnel records to the public).

3 *Bogan v. Scott-Harris*, 523 U.S. 44, 54, 118 S. Ct. 966, 140 L.Ed.2d 79 (1998) (council members have immunity from civil rights liability for all actions taken "in the sphere of legitimate legislative activity"). For legislative immunity under federal law, courts apply a four-part test: "(1) whether the act involves *ad hoc* decision-making, or the formulation of policy; (2) whether the act applies to a few individuals, or to the public at large; (3) whether the act is formally legislative in character; and (4) whether it bears all the hallmarks of traditional legislation." *Kaahumanu v. County of Maui*, 315 F.3d 1215, 1220 (9th Cir. 2003). "Whether an act is legislative turns on the nature of the act, rather than on the motive or intent of the official performing it." *Bogan*, 523 U.S. at 54.

4 *Braun*, 154 Cal. App. 3d at 338-40, 347-48.

5 *Id.* at 346-48.

6 *See Hill v. National Collegiate Athletic Assn.*, 7 Cal. 4th 1, 35-38 (1994).

7 Indeed, at least one Attorney General Opinion describes that the Brown Act closed meeting exception does not apply to a body's discussion of employees over whom the body does not have appointing authority. *See* 85 Ops. Cal. Atty. Gen. 77 (2002). This supports the position that a council should delegate decision-making over such employees, since it would otherwise have to consider their performance in open session.

8 Cal. Gov. Code § 54957(b)(1).

9 85 Ops. Cal. Atty. Gen. 77 (2002).

EXHIBIT X



City of Arts & Innovation

**Public Comment for July 22, 2014
City Council Meeting
Prepared by the City Clerk's Office at 11 a.m. on July 22, 2014**

Item	Name	Neighborhood	Comments
1. Hearing on investigation of complaints against Councilmember Soubirous for administrative interference and harassment (All Wards)	Donald Gallegos	Downtown	Many residents in the community including myself find this "witch-hunt" to be a horrendous waste of taxpayer money. With all of the serious current events going on in our world, it is outrageous that city officials would spend any time and money on hearsay, assumptions and accusations. I strongly suggest that we throw out this matter and get down to the serious matters that concern the residents of Riverside. I also find it counter-productive for our chief of police Sergio Diaz to be accusing someone else of inappropriate behavior. RPOA Brian Smith supported Soubirous opponent. The RPOA spent thousands on Mike's opponent. Yet Smith claims that he has no agenda or motive to lie against Soubirous. It is newly elected Ward 3 Councilman Mike Soubirous who has encountered a hostile work environment. Mike, I will support any legal action that YOU may choose to take regarding encountering a hostile work environment at Riverside city hall. Donald Herman Collins Gallegos
1. Hearing on investigation of complaints against Councilmember Soubirous for administrative interference and harassment (All Wards)	Tom Evans	Arlington	I believe the only action possible is "no action" since you have two credible witnesses with different views of the event in question. This is not uncommon and neither witness deserves more credibility than the other. I further recommend that the council should have a closed session with the city manager to discuss how the city manager believes section 407 is applied in practice. A closed session allows a frank discussion with all the council members and mayor and city manager. The key is that everyone has to understand and implement 407 exactly the same. Considering that there are 2 relatively new council members, it is appropriate to have a discussion with everyone present to insure equal understanding and commitment to the outcome.
7. Purchase and Sale Agreement with Ratkovich Properties, LLC, for development of Imperial Hardware Building and adjacent Tumbleweed Lot - 3675 University Avenue, 3750 and 3768 Main Street (Ward 1)	Janice Penner		The Riverside Downtown Partnership supports the City of Riverside entering into an agreement for the development of the Imperial Hardware Building and adjacent Tumbleweed Lot. The mixed use development will provide needed residential, retail, and restaurant options in the downtown core and generate sales tax and other revenue for the City.

City Council meeting date: 7-22-14
Item No.: 1

From: wtastin@aol.com [<mailto:wtastin@aol.com>]
Sent: Tuesday, July 22, 2014 12:31 PM
To: Morton, Sherry
Subject: Today's City Council Meeting

I tried to send an e-comment on the Soubirous hearing set today, but the e-comment function was closed at 11 am. This seems a little early and I wondered why. I wanted to make the following comments: (all page references are to the Gumpert-Mastan report)

In light of the fact that the very expensive investigation found "there is no way to determine with a reasonable degree of certainty what the Councilman and Sergeant Smith said at the February 14, 2014 (sic) meeting." (p.2) and "there is no reasonable basis to conclude, one way or the other, which account of the meeting is accurate" (p.4) and "it strongly appears that there is insufficient information to justify finding that, in connection with the February 14, 2014 (sic) meeting the Councilman violated the Charter, caused or created a hostile work environment for the City Manager, or violated the City's Code of Ethics." (p.5) and "Under these circumstances, it would require undue speculation to decide whose account of the February 14 meeting is accurate." (p.16) and "It strongly appears that there was no Brown Act violation." (p.16) and "It would be speculation to conclude that the Councilman committed any Ethics Code violation because it would be speculation to conclude that Sergeant Smith's version of the February 14 meeting is accurate." (p.16) and, with regard to the "hostile workplace" allegation, "Again, it would be speculation to accept Sergeant Smith's version of the February 14 meeting." and "It would require unreasonable speculation to conclude, however, that Sergeant Smith's version of what happened is any more accurate than the Councilman's version." (p.17) it appears unreasonable for the City Council to have voted to set this matter for today's hearing. This action causes one to question the motives of the other members of the City Council. Having viewed the actions of the City Council on other occasions leads one to conclude that the majority of the City Council has taken this action for solely political purposes to harass a single member of the Council who has, on several occasions, voted against the actions of what has been widely regarded as the "good old boys" of the City Council. Using this action for vengeance and private political motivation is a violation of ethics and perhaps all of those who voted to set this matter for a hearing should be investigated. In addition, the obvious bias of those charging Councilman Soubirous with misconduct should be considered before such a hearing is set. The City Council is making itself look like a politically motivated clique who punishes dissenters without reasonable cause. They should be ashamed.

Wayne Astin
Riverside property owner and retired attorney

July 21, 2014

Dear Councilmen,

Leave our councilman, Mike Soubirous, alone for doing his job!!!

The City first targeted him during election with the sign ordinance. Then the City spent money for a BB&K Attorney to enforce the citation that is public ignorance. His opponent had signs placed in the wrong area's, as I'm sure many of you have had during your own campaigning periods.

Now we are dealing with this fabricated allegations of 'interfering with the job performance and harassment' of Mr. Barber and Mr. Diaz. Mike Soubirous was elected to voice the citizens' complaints about their quality of life issues and get these issues resolved. How can a citizens' elected representative questioning policies and procedures that are not successful, be considered administrative interference and harassment? This is part of the job duties of successful executive management employees, to change and adjust policies and procedures to ensure achievement, and be accountable to the citizens. He's done a great job but I would like to see more help from his council members. We have to have, consist rules that apply to everyone equally.

You have some glaring problems that need to be fixed right in front of you! How could you condone this waste of money? You have City Charter Rules that weren't followed. What about State and Federal laws that are not followed. The City is open to many liabilities that will result in lawsuits because of neglect, and the leadership's way of bullying people who bring this to the City's attention. This is a very negative management practice and WILL AND HAS cost the City a loss of monetary assets and negative notoriety.

"Tyranny is defined as that which is legal for the government but illegal for the citizenry." Thomas Jefferson

As I said before, Leave Our Councilman Alone!! All invested Riversiders want to see Riverside be great and prosper. To grow up with dignity and, be the best it can be. It just takes some teamwork and compromise, but it can be done!

Sincerely,
Daniel and Susan Shelton, Ward 3

Date: 7-22-14

Item No.: 1

Subject: FW: July 22nd "Hearing" Comment

From: david dunaj <ddunaj909@charter.net>

> In the matter concerning Mike Soubirous, I have know Mr. Soubirous for many years he is an honest ethical person and has given back to the community in his personal life aswell as during his profession as a CHP officer. I do not know the actual complaint or what was done however I have worked and associated with many employees and normally things are said and based on interpretation any one can come up with some type of violation. What is disconcerting is it seems our governing body including the city mgr and police chief take aim at newcomers. Iam including Paul Davis in this newcomer category. My opinion after watching council meetings and what I read concerning our governing body is anyone new with new ideas or anyone with dissenting ideas are targets. In my opinion these violations may have been avoided if they came from one of the chosen few.

>

> What happened to discussion to resolve differences,instead of spending tax payer dollars? I was told the city did not have the expertise to investigate this issue. When I was in industry issues like this were investigated internally through HR. I doubt our private company had as much expertise as the city.I was also told the issue with the police chief and as written in the Press his admitted problem with threatening individuals was handled internally. I was also told the Chief apologized to his officers, it is easy for the boss to apologize to his subordinates, he should apologize publicly to his Employers the people of Riverside. And since it was in the Press his apology and discipline should be of public record. In my opinion if he was not in good with City Mgr, Mayor etc. The issue may have been handled in a different manner.It sure didn't get as much press as the councilmen did!

>

> I believe Mike Soubirous should be allowed to continue with no restrictions and be accepted as a strong team member of our governing body.

>

> We have a great city !!! You all have done some good things! All in all the governing body is there to serve the people of Riverside! There will always be differences of opinion,so work through them, you are our elected Team its about time you all acted as a Team instead of selectively choosing who is right or wrong, based on who disagrees with the "clicks" agendas.All though over used there is no "I" in team!!

When I was growing up the worst thing that could happen to me was when my Dad would tell me he was dissapointed in me. Well Iam dissapointed in you, are leadership.

>

**CITY OF RIVERSIDE
SPEAKER CARD**

WELCOME TO THE RIVERSIDE CITY COUNCIL MEETING.

IF YOU WISH TO ADDRESS THE CITY COUNCIL, PLEASE COMPLETE AND SUBMIT THIS CARD TO THE CITY CLERK. SPEAKERS ARE ENCOURAGED TO SUBMIT THEIR CARDS TO THE CITY CLERK BEFORE THE SCHEDULED MEETING TIME. SPEAKER CARDS WILL BE ACCEPTED UNTIL THE AGENDA ITEM IS CALLED.

ITEM NO.: 1
NAME: BRIAN SMITH DATE: 7/22/14
CITY/NEIGHBORHOOD: RUSD- PD PHONE # (Optional): _____
ADDRESS (Optional): _____
Address City/State/Zip
SUBJECT: COUNCIL REPORT FROM GUM PORT
☐ SUPPORT ☐ OPPOSE ☐ NEUTRAL

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Pursuant to the City Council Meeting Rules adopted by Resolution No. 22676, the Members of the City Council and the public are reminded that they must preserve order and decorum throughout the Meeting. In that regard, Members of the City Council and the public are advised that any delay or disruption in the proceedings or a refusal to obey the orders of the City Council or the presiding officer constitutes a violation of these rules.

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ITEM NO.:

NAME: AURELIO MENDOZA

DATE: 7/22/14

CITY/NEIGHBORHOOD: RIVERSIDE P.D.

PHONE # (Optional): _____

ADDRESS (Optional): _____

Address

City/State/Zip

SUBJECT: COUNCIL PD FROM GUN PORT

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SUPPORT

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OPPOSE

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ITEM NO.:

1

NAME:

John Fisher

DATE:

7/22/14

CITY/NEIGHBORHOOD:

Riverside

PHONE # (Optional):

951 714-1085

ADDRESS (Optional):

4250 Brentwood Ave.

Riverside

Address

City/State/Zip

SUBJECT:

Council member Scott Brown

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SUPPORT

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OPPOSE

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ITEM NO.: 1

NAME: Daryl Terrell

DATE: 7-22-14

CITY/NEIGHBORHOOD: Mo Valley

PHONE # (Optional): _____

ADDRESS (Optional): _____
Address City/State/Zip

SUBJECT: Ethnic COUNCIL

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SUPPORT

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OPPOSE

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ITEM NO.: 1

NAME: ART CASSEL

DATE: 7-22-14

CITY/NEIGHBORHOOD: SPHERE

PHONE # (Optional): _____

ADDRESS (Optional): _____
Address City/State/Zip

SUBJECT: _____

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SUPPORT

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OPPOSE

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ITEM NO.: 1
NAME: EDRO1 DATE: 7/21/14

CITY/NEIGHBORHOOD: WARD #5 PHONE # (Optional): _____

ADDRESS (Optional): _____
Address City/State/Zip

SUBJECT: DISCUSSION CALENDER MIKE SWIRIS

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SUPPORT

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OPPOSE

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ITEM NO.: 1

NAME: WILLIAM HERRING

DATE: 7-22-14

CITY/NEIGHBORHOOD: RIVERSIDE

PHONE # (Optional): _____

ADDRESS (Optional): _____
Address City/State/Zip

SUBJECT: _____

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SUPPORT

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OPPOSE

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ITEM NO.: 1
NAME: Kristina Zarazera DATE: 7/22/14
CITY/NEIGHBORHOOD: Hawaarden area PHONE # (Optional): _____
ADDRESS (Optional): _____
Address City/State/Zip
SUBJECT: ~~00~~ Saubirius Complaint/ investigation
☐ SUPPORT ☒ OPPOSE ☐ NEUTRAL

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ITEM NO.: 1

NAME: Gary M. Christmas

DATE: 7/22/14

CITY/NEIGHBORHOOD: Ward 4 / Riverside PHONE # (Optional): _____

ADDRESS (Optional): _____
Address City/State/Zip

SUBJECT: Hearing

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SUPPORT

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OPPOSE

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ITEM NO.: 1

NAME: Kathy Allavie

DATE: 7-22-14

CITY/NEIGHBORHOOD: Riverside

PHONE # (Optional): (951) 784-7377

ADDRESS (Optional): 2490 Prince Albert Dr. Riverside CA 92507
Address City/State/Zip

SUBJECT: Hearing

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SUPPORT

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OPPOSE

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ITEM NO.: 1

NAME: Andy Bodewin

DATE: 7-22-14

CITY/NEIGHBORHOOD: Ward 3

PHONE # (Optional): 951-7891177

ADDRESS (Optional): 364 Eternal Way
Address

Riv 92506
City/State/Zip

SUBJECT: #1 Support Mike

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SUPPORT

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ITEM NO.: _____

NAME: _____

DATE: _____

CITY/NEIGHBORHOOD: _____

PHONE # (Optional): _____

ADDRESS (Optional): _____

Address

City/State/Zip

SUBJECT: _____

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SUPPORT

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ITEM NO.: 1
NAME: JASON HUNTER DATE: 7/22/14
CITY/NEIGHBORHOOD: WARD 2 PHONE # (Optional): _____
ADDRESS (Optional): _____
Address City/State/Zip
SUBJECT: FINDINGS OF GUMPORT/MYSTAD INVESTIGATIVE REPORT
☐ SUPPORT ☒ OPPOSE ☐ NEUTRAL

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ITEM NO.: ~~2~~ 1

NAME: Raychelle Sterling

DATE: 7-22-14

CITY/NEIGHBORHOOD: _____

PHONE # (Optional): _____

ADDRESS (Optional): _____
Address City/State/Zip

SUBJECT: Subjirous

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SUPPORT

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OPPOSE

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ITEM NO.: 1

NAME: Donald Gallegos DATE: 07-22-14

CITY/NEIGHBORHOOD: Ward 1 PHONE # (Optional): _____

ADDRESS (Optional): _____
Address City/State/Zip

SUBJECT: Soubirous

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SUPPORT

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OPPOSE

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ITEM NO.: 1
NAME: Jackie Rawlings DATE: 7/22/2014
CITY/NEIGHBORHOOD: Riverside PHONE # (Optional): 951-369-3722
ADDRESS (Optional): 7440 Magnolia Ave
Address City/State/Zip
SUBJECT: Mike is great as his son
☒ SUPPORT ☐ OPPOSE ☐ NEUTRAL

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ITEM NO.: _____

NAME: Collette Lee

DATE: 7-²²~~18~~-14

CITY/NEIGHBORHOOD: _____

PHONE # (Optional): _____

ADDRESS (Optional): 8087 Citricado Ln
Address

Riverside 92508
City/State/Zip

SUBJECT: State of City Procedure

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OPPOSE

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ITEM NO.: _____

NAME: Mary Feltz DATE: _____

CITY/NEIGHBORHOOD: _____ PHONE # (Optional): _____

ADDRESS (Optional): _____
Address City/State/Zip

SUBJECT: Subversive Party

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ITEM NO.: _____

NAME: Chuck Mahatadse DATE: 7-22-14

CITY/NEIGHBORHOOD: ward 6 PHONE # (Optional): _____

ADDRESS (Optional): _____
Address City/State/Zip

SUBJECT: Soubirous hearing

☐ SUPPORT ☒ OPPOSE ☐ NEUTRAL

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ITEM NO.: 1

NAME: RICK GAY

DATE: 7/22/14

CITY/NEIGHBORHOOD: WARD 3

PHONE # (Optional): _____

ADDRESS (Optional): _____

Address

Riverside, CA. 92506

City/State/Zip

SUBJECT: Hearing on investigation of Complaint

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SUPPORT

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OPPOSE

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ITEM NO.: 1

NAME: Tared Haringsma

DATE: 7/22/14

CITY/NEIGHBORHOOD: Riverside

PHONE # (Optional): _____

ADDRESS (Optional): _____

Address

City/State/Zip

SUBJECT: Brian Smith

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SUPPORT

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OPPOSE

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SPEAKER CARD**

WELCOME TO THE RIVERSIDE CITY COUNCIL MEETING.

IF YOU WISH TO ADDRESS THE CITY COUNCIL, PLEASE COMPLETE AND SUBMIT THIS CARD TO THE CITY CLERK. SPEAKERS ARE ENCOURAGED TO SUBMIT THEIR CARDS TO THE CITY CLERK BEFORE THE SCHEDULED MEETING TIME. SPEAKER CARDS WILL BE ACCEPTED UNTIL THE AGENDA ITEM IS CALLED.

ITEM NO.: _____

NAME: Bob Bishop

DATE: 7-22-14

CITY/NEIGHBORHOOD: S

PHONE # (Optional): _____

ADDRESS (Optional): _____
Address City/State/Zip

SUBJECT: Subversive hearing

☐

SUPPORT

☐

OPPOSE

☐

NEUTRAL

In accordance with the Public Records Act, any information you provide on this form is available to the public.

Pursuant to the City Council Meeting Rules adopted by Resolution No. 22676, the Members of the City Council and the public are reminded that they must preserve order and decorum throughout the Meeting. In that regard, Members of the City Council and the public are advised that any delay or disruption in the proceedings or a refusal to obey the orders of the City Council or the presiding officer constitutes a violation of these rules.

**CITY OF RIVERSIDE
SPEAKER CARD**

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ITEM NO.: _____

NAME: Debi Terwilliger

DATE: 7-22-14

CITY/NEIGHBORHOOD: ward 3,

PHONE # (Optional): _____

ADDRESS (Optional): _____
Address City/State/Zip

SUBJECT: Southern hearing

☐

SUPPORT

☐

OPPOSE

☐

NEUTRAL

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To: Rusty, +1 [REDACTED]

iMessage

Tue, Jun 17, 8:52 PM

+1 [REDACTED]



Very disappointing on
the councils vote on
ambulance service!!

Rusty Bailey



Tell me about it.
Embarrassing. We
need some new
council members. You
ready to run?