

RICHMOND, CALIFORNIA, March 18, 2022

Community Services Building
440 Civic Center Plaza
Richmond, CA 94804

A. SPECIAL OPEN SESSION TO HEAR PUBLIC COMMENT BEFORE CLOSED SESSION

The Richmond City Council Special Open Session was called to order at 3:19 p.m. by Vice Mayor Eduardo Martinez via teleconference. Mayor Thomas K. Butt was experiencing technical video issues and appointed the vice mayor to chair the meeting.

B. ROLL CALL

Present: Councilmembers Claudia Jimenez, Demnlus Johnson III, Gayle McLaughlin, Melvin Willis, Vice Mayor Eduardo Martinez, and Mayor Thomas K. Butt. **Absent:** Councilmember Nathaniel Bates was absent for the entire Closed Session.

C. CLOSED SESSION

C.1 CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (paragraph (1) of Subdivision [d] of Government Code Section 54956.9)

- SPRAWLDEF et al. v. City of Richmond
- The Guidiville Rancheria of California, et al. v. The United States of America, et. al.
- North Coast Rivers Alliance et al./Point Molate Alliance et al. v. City of Richmond

C.2 CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Significant exposure to litigation pursuant to paragraph (2) or (3) of Subdivision (d) [as applicable] of Government Code Section 54956.9)

- **Three Cases**

In light of the California Court of Appeal's decision in Fowler v. City of Lafayette, the City Attorney's Office is attaching to this agenda four communications regarding the amended judgment and various agreements related to Point Molate. These letters provide the existing facts and circumstances for going into closed session on these items pursuant to California Government Code Section 54956.9(d)(2) and (e)(3).

D. PUBLIC COMMENT BEFORE CLOSED SESSION

The following individuals gave comments via teleconference: Doria Mueller-Beilschmidt, Pam Stello, Linda Klein, Kathleen (last name not stated), Jim Hanson, Alix Mazuet, Jeanne Kortz, Dani Zacky, Jamin Pursell, Sally Tobin, Joe Puleo, and Dan Engler.

E. ADJOURN TO CLOSED SESSION

The Open Session adjourned to Closed Session at 3:45 p.m. Closed Session adjourned at 4:25 p.m.

F. SPECIAL MEETING OF THE RICHMOND CITY COUNCIL

The Special Meeting of the Richmond City Council was called to order at 4:27 p.m. by Vice Mayor Eduardo Martinez via teleconference. Mayor Thomas K. Butt was experiencing technical video issues and appointed the vice mayor to chair the meeting.

G. ROLL CALL

Present: Councilmembers Jimenez, McLaughlin, Willis, and Vice Mayor Martinez.
Absent: Councilmembers Bates and Johnson III were absent for the entire meeting. Mayor Butt arrived after the roll was called.

H. PUBLIC COMMENT INSTRUCTIONAL VIDEO

The public comment instructional video was shown.

I. STATEMENT OF CONFLICT OF INTEREST

None.

J. AGENDA REVIEW

None.

K. REPORT FROM THE CITY ATTORNEY OF FINAL DECISIONS MADE DURING CLOSED SESSION

Interim City Attorney Dave Aleshire reported there were no reportable actions taken.

L. NEW BUSINESS

L.1 Adoption of a Resolution of Intent to Establish a Community Facilities District (CFD) for Point Molate, Adoption of Goals & Policies Statement for Community Facilities Districts, specifically for the Point Molate CFD

ADOPT a resolution adopting Local Goals and Policies Relating to Community Facilities Districts; ADOPT a resolution of intention to establish the City of Richmond Community Facilities District No. 2022-1 (Point Molate), and to Designate Three Improvement Areas therein, to Authorize the Levy of a Special Tax to Pay the Cost of Acquiring or Constructing Certain Facilities, Provide Certain Services and Pay for Certain Incidental Expenses and to Pay Debt Service on Bonded Indebtedness; and ADOPT a resolution of intention to Incur Bonded Indebtedness Within the City of Richmond Community Facilities District No. 2022-1 (Point Molate), and Each of the Three Improvement Areas Therein. There is no requirement of General Fund support for these Bond measures - Public Works Department (Joe Leach 510-620-5478).

Interim City Attorney Dave Aleshire and Mark Northcross of NHA Advisors introduced the matter. Mr. Northcross and Mike Medve of NHA Advisors presented a PowerPoint that highlighted the following: SunCal concession on fiscal impact; revised worst-case fiscal impact analysis with SunCal concession; projected homes sales prices for Point Molate; comparisons with and without SunCal concession; and conclusion. Discussion ensued. Mr. Aleshire clarified the two options for the council's consideration. Mr. Aleshire advised that the resolution of intention to hold a public hearing to form a CFD was included in the agenda packet published before the meeting, and a resolution to decline to form a CFD was published as a supplemental document on the city's website after the agenda packet was published. The council recommended a future analysis of

existing Richmond communities to determine if the cost of providing services was afforded by the taxes received from those communities. The following individuals gave comments via teleconference: Elsa Stevens, Sally Tobin, Pam Stello, Jeff Killbreth, Dan Engler, Jim Hanson, and Deborah Bayer. Further discussion ensued.

Motion by Councilmember McLaughlin

Seconded by Councilmember Jimenez

To adopt the resolution declining to establish the City of Richmond Community Facilities District No. 2022-1 (Point Molate), as there is evidence that such district could require financial support from the city's General Fund and no guarantee from developer that it will not; there are uncertainties over the phasing of improvements and the developer's financial capacities and performance; and developer has not performed all its obligations.

Ayes (4): Councilmember Jimenez, Councilmember Willis, Councilmember McLaughlin, and Vice Mayor Martinez

Absent (3): Councilmember Bates, Councilmember Johnson III, and Mayor Butt

Passed (4 to 0)

M. ADJOURNMENT

There being no further business, the meeting adjourned at 6:00 p.m., to meet again on Tuesday, March 22, 2022, at 6:30 p.m.

Clerk of the City of Richmond

Mayor

From: [Sabey, Andrew](#)
To: [City Clerk Dept User: daleshire@awattorneys.com](#)
Cc: [Klein, Linda C.](#); [Engler, Daniel M.](#)
Subject: Letter Re City Council Consideration of CFD Resolution
Date: Friday, March 18, 2022 4:49:41 PM
Attachments: [comments to City Council 031822\(14663000.1\).pdf](#)

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Dear Clerk
Please distribute to the Council.
Thank you.

Andrew B. Sabey



Cox, Castle & Nicholson LLP
50 California Street | Suite 3200 | San Francisco, CA 94111
direct: 415.262.5103 | *main:* 415.262.5100
asabey@coxcastle.com | [vcard](#) | [bio](#) | [website](#)

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Cox, Castle & Nicholson LLP
50 California Street, Suite 3200
San Francisco, California 94111-4710
P: 415.262.5100 F: 415.262.5199

Andrew B. Sabey
415.262.5103
asabey@coxcastle.com

File No. 87029

March 18, 2022

VIA EMAIL

City Council
c/o Pamela Christian, City Clerk
City of Richmond
450 Civic Center Plaza
Richmond, CA 94804

Re: Comments to the City Council regarding Resolution of Intent to form a
Community Facilities District (CFD), Pt. Molate

Dear Mayer Butt and councilmembers:

Building on the commitments and terms negotiated in our Development Agreement with the City, Winehaven and City staffs have completed the underlying analysis and established the structure to form the CFD, which brings needed infrastructure, including much needed public safety infrastructure, to the Point Molate site. The Richmond City Council has already approved our Plan for the site which balances the need to deliver vitality and economic value, with the desire to preserve open space and environmental values on the site.

Several councilmembers have voiced concern about whether the CFD might negatively affect the City general fund. We have already agreed to “backstop” any CFD revenue shortages as needed to fund Bond payments (this is in addition to the \$22.5 Million that the City derives from the sale of the site). As evidenced in the City staff’s report, your consultants and staff have already concluded that there are already adequate financial protections to insulate the City's General Fund from any possible CFD financing shortfalls.

Given the scheduling delays by the City to get us to this meeting today, any further delays in approving the Resolution of Intent will amount to a *de facto* breach of City’s commitments under the Development Agreement. The City’s breach threatens significant financial impacts to Winehaven and its financial partners who have invested thousands of hours and millions of dollars into the Project, which investments were based on the City honoring its commitments as agreed to in the DA and the DDA.

City and Winehaven staff and consultants have done a tremendous amount of professional work to get us to this point, and while some of you may have preferred a different

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development Plan, the current approved Plan does incorporate an abundance of open space, shoreline and park areas (over 70% of the site), habitat preservation and additional public spaces within the Historic District that this project will revitalize, provides much needed market and affordable housing, and is fiscally sound.

Historic buildings are crumbling, and lead and asbestos keeps the entire site closed to the public. We hope that give full weight to the reports your staff and consultants have provided, and that we can move forward together from this point forward,

Very truly yours,

Cox, Castle & Nicholson LLP



Andrew B. Sabey

ABS:vm
cc David Aleshire, City Attorney

From: [David Kafton](#)
To: [City Clerk Dept User](#)
Cc: [David Kafton](#)
Subject: PUBLIC COMMENTS - AGENDA ITEM L.1
Date: Friday, March 18, 2022 12:47:10 PM

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Dear Mayor & City Council Members,

Greetings!

I am a resident and real estate broker in Richmond.

I strongly urge you to vote No on Item L. 1, the intent to form a Community Financing District.

Three independent financial analyses have concluded the City of Richmond is highly likely to be liable for millions of dollars.

Thank you very much for your consideration of my request.

All the best,

David

David Kafton, Ph.D.
Owner/Real Estate Broker
Kafton Real Estate
david@kaftonrealestate.com

davidkafton@gmail.com
 www.kaftonrealestate.com
 510.524.8973

From: [Roberta Wyn CESP](#)
To: [City Clerk Dept User](#)
Subject: Public Comments-- Agenda Item L.1. Adoption of A Resolution to Establish a Community Facilities District, Special Meeting March 18, 2022
Date: Friday, March 18, 2022 9:27:46 AM

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Dear Mayor Butt and Richmond City Councilmembers:

Citizens for East Shore Parks (CESP) is resubmitting the public comment below, which we originally submitted on March 15, 2022, since the agenda item on Adoption of Intent to Establish CFD will be heard March 18, 2022 as Agenda Item L.1. Thank you.

March 15, 2022

Mayor Thomas Butt and Richmond City Councilmembers

Richmond City Council

450 Civic Center Plaza

Richmond CA, 94804

Re: Agenda Item L.1. March 18, 2022. Special Meeting. Adoption of a Resolution of Intent to Establish a Community Facilities District (CFD) for Point Molate, Adoption of Goals & Policies Statement for Community Facilities Districts, specifically for the Point Molate CFD.

Dear Mayor Butt and Councilmembers Nate Bates, Claudia Jimenez, Demnlus Johnson, Eduardo Martinez, Gayle McLaughlin, Melvin Willis:

On the agenda is the adoption of the resolution of intent regarding the formation of a Community Facilities District (CFD) for the development project at Point Molate. It is our understanding that the developer is now asking for an authorized bond amount of up to \$292 million. This is three times the allocation amount for the District in the Disposition and Development Agreement (DDA).

Citizens for East Shore Parks (CESP), Sierra Club, Richmond residents, community experts,

and other organizations had repeatedly warned the previous City Council that the numbers for this project show that it will end up burdening the City with costs not covered by the development and that the City and its residents would be burdened by the financial shortfall of this high risk project. Now the numbers have been revisited and the request for the developer is far greater and far riskier than ever discussed before. You are being asked to put the economic future of the City at risk. You will remember that the proponents of this development PROMISED THERE WOULD BE NO RISK to the City. Now the numbers show there will be millions of dollars of shortfall and the way the developer intends to paper over this is with unrealistic assumptions about sales prices, about the speed of the sales and about the size of the loan. The developer also will now tell you that the developer will stand behind the promises of no risk by pledging to cover the risk somehow or other. However this developer has no real assets or way to cover anything and if there is a debt the LLC will just go bankrupt as the SunCal LLCs have done in the past. That is the whole purpose of the LLC - to silo the exposure and bankrupt the LLC if there is a loss coming its way.

The goals of Richmond involve providing more equity to the community and providing housing that Richmond community can afford, along the transportation corridors. They do not involve exposing the community to supporting and subsidizing luxury housing enclaves for the wealthy with enormous infrastructure expenses, in a high severity fire zone, near a refinery, only accessible via a two-lane road.

It is time to act in the interests of Richmond, not the developer. There is no reason why the Council must agree to create a District or to authorize any amount, no less a \$290 million bond amount (again three times higher than the allocation in the Disposition and Development Agreement (DDA). It is your legal right under the DA and DDA to reject this CFD; it is within the sole discretion of the city. You could do it for no reason or any reason but here you must do it because approving this CFD will put the entire economic future of Richmond at risk, exposing the City to millions of dollars of losses per year and ravaging the general fund.

We concur with the January 25, 2022 sent to the City Council by Sierra Club, San Francisco Bay Chapter. If the current developer backs out of the project, the City can pursue alternatives for resolving the issues related to Point Molate and reach a solution that ends years of litigation, provides a true benefit to the community, eliminates the high risk financial gamble, and places development energy and resources where it is needed and necessary.

We urge you not to move forward with the formation of the CFD and bond indebtedness. No City Council should approve such financial indebtedness and risk.

Sincerely,

Shirley Dean

Shirley Dean

Board President, Citizens for East Shore Parks

Citizens for East Shore Parks

P.O. Box 6087

Albany, CA 94706

(510) 524 - 5000 (office)

(510) 526 - 3672 (fax)

www.eastshorepark.org

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