

**RICHMOND, CALIFORNIA,
SPECIAL CITY COUNCIL MINUTES**

December 12, 2023, 5:00 p.m.
Community Services Building
440 Civic Center Plaza
Richmond, CA 94804

A. SPECIAL COUNCIL MEETING OF THE RICHMOND CITY COUNCIL

The Special Meeting was called to order at 5:09 p.m. by Mayor Eduardo Martinez.

B. PLEDGE OF ALLEGIANCE

Mayor Martinez led the Pledge of Allegiance to the Flag.

C. ROLL CALL

Present: Councilmembers Soheila Bana, Doria Robinson, Melvin Willis, Cesar Zepeda, and Mayor Eduardo Martinez. **Absent:** Councilmember Claudia Jimenez and Vice Mayor Gayle McLaughlin.

D. STATEMENT OF CONFLICT OF INTEREST

None.

E. AGENDA REVIEW

None.

F. NEW BUSINESS

F.1 Presentation by Veolia Water North America Staff regarding Hydrogen Sulfide (H₂S) Odors

RECEIVE a presentation from Veolia Water North America regarding the Hydrogen Sulfide (H₂S) odors that were emitted from the Richmond Wastewater Treatment Plant December 4 – 6, 2023; and PROVIDE direction to City staff – Public Works Department (Daniel Chavarria 510-620-5478).

Public Works Director Daniel Chavarria Project Manager Water Resource Recovery Division Mary Phelps presented a PowerPoint, which highlighted the following: Agencies with Regulatory Oversight of the Richmond Wastewater Treatment Plant; Richmond Service Area; Veolia Contract History; Summary of recent events; Graphs of Hydrogen Sulfide Levels; and Veolia Water. Discussion ensued. Deputy Public Works Director/Civic Engineer Robert Armijo introduced the following speakers Melissa Sandoval, Veolia Regional Vice President presented a PowerPoint, which highlighted the following: Odor Complaint & Mitigation Summary Report; Obsolete exhaust fan connected to the temporary odor scrubber; new exhaust fan and suction piping being installed; Secondary clarifier #1 offline, secondary clarifier #2 in operation; Health effects of H2S. Discussion ensued. The council requested timing of incident and when alerts were given, how many clarifiers have been put down in other communities, forecast of future projects, written communication in surrounding areas, City council recommended that the health agencies joined to coordinate the alert and messaging system to the community.

The following individuals gave comments in person: James Cheshareck, Edie Sellers, Philip Rosenthal, and Alfredo Angulo. The following individuals gave comments via Zoom: Jenny Balisle, Maureen Decombe, Shannon, Nancy Peace, Leisa Johnson, Marisol Cantu, and Jane Courant, Cecil Calban, and Joy Diaz-Noriega. Further discussion ensued. The city council recommended redundancy with notifications on releases, such as informing Project Manager Mary Phelps, city manager, city attorney, and the mayor and Councilmembers.

Councilmember Robinson, seconded by Councilmember Willis, directed city staff, specifically the City Attorney's Office to 1) enforce the contract wherever and however possible; 2) to explore potential grounds for breach of contract; 3) investigate the claims of fraudulent charges; and 4) look into the possibility of starting a process for a more responsible provider. Councilmember Zepeda made a friendly amendment as follows: that Veolia submit a technical report to the city by January 8, 2024, that outlines the reason for the odor event, why the odor issues took place, what went wrong, and for Veolia to make assurances that they will take corrective steps to permanently resolve the odor issues. The report should cover the last year of information. The report should include advance notice of activities that may result in odor releases that would include physical postings, communication with city staff and residents regarding alerts, and procedures for addressing odor releases. Once staff evaluates the report, city council requested a meeting on January 23, 2024, to discuss the report with Veolia and to invite other relevant agencies, including the Bay Area Air Quality Management District and

the County Health Department to join the January 23, 2024, meeting. A second friendly amendment was made by Councilmember Bana to direct city staff to work with the Contra Costa County to provide the possibility of using the community warning system for Veolia as well. Mayor Martinez made a third friendly amendment that a forensic audit be performed with Veolia. Councilmember Robinson accepted all the friendly amendments. Further discussion ensued. City council requested a quarterly report from Veolia that would also include storm drain information. The motion passed by the following vote: **Ayes:** Councilmembers Bana, Robinson, Willis, Zepeda, and Mayor Martinez. **Noes:** None. **Absent:** Councilmember Jimenez, and Vice Mayor McLaughlin. **Abstain:** None. None.

Ayes (5): Councilmember Soheila Bana, Councilmember Doria Robinson, Councilmember Melvin Willis, Councilmember Cesar Zepeda, and Mayor Eduardo Martinez

Absent (2): Councilmember Claudia Jimenez and Vice Mayor Gayle McLaughlin

Passed (5 to 0)

G. ADJOURNMENT

There being no further business, the meeting adjourned at 8:32 p.m., to meet again on December 19, 2023, at 6:30 p.m.

Clerk of the City of Richmond

Mayor

From: [Barbara Sully](#)
To: [City Clerk Dept User](#)
Cc: [Soheila Bana](#); [Claudia Jimenez](#); [Eduardo Martinez](#); [Gayle McLaughlin](#); [Melvin Willis](#); [Cesar Zepeda](#); [Doria Robinson](#)
Subject: Public Comment - Agenda Item L.1, Veolia
Date: Monday, December 11, 2023 8:02:01 AM

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Hello,

I live in Brickyard Landing, Pt. Richmond. My daily walk is generally the highlight of my day, out in the fresh air getting good, healthy, calming exercise. There have always been a variety of intermittent disturbing odors where we live, unfortunately - But the past few weeks or longer, I find that I can't breathe properly or fully enjoy the out of doors due to the extreme odor of sewage in the air. I worry because this cannot possibly be healthy, and because I find it difficult to take a good breath due to the acrid smell.

I understand that there is a meeting to discuss this issue on December 12. Unfortunately, I am not available to attend - But please, please, please address this very unpleasant and unhealthy situation.

Thank you for your attention,
Barbara Sully

From: [DEE BELL](#)
To: [City Clerk Dept User](#)
Cc: [Cesar Zepeda](#)
Subject: Public Comment - Agenda Item L.1, Veolia
Date: Monday, December 11, 2023 7:40:52 AM

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To who. It May Concern:

I have been a resident of Point Richmond since 2001.

Over the years the toxic odors / releases seem to have gotten worse and more frequent.

I get severe headaches and have trouble breathing this air. It makes me feel like I have some kind of sickness. I need to close up all my windows and stay inside with an air purifier when it is beautiful weather outside.

Please do something to stop this problem.

Thank you,
Dee Bell

From: edie@ediesellers.com
To: [Soheila Bana](#); [Claudia Jimenez](#); [Eduardo Martinez](#); [Gayle McLaughlin](#); [Doria Robinson](#); [Melvin Willis](#); [Cesar Zepeda](#); [City Clerk Dept User](#)
Subject: Public Comment - Agenda Item L.1, Veolia
Date: Monday, December 11, 2023 6:28:47 PM

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Dear Richmond City Council members, Richmond City Management, and Staff,

I'm writing – begging -- you to do something about the noxious and dangerous threat to health currently posed by Veolia and its appalling mismanagement of our wastewater facility on Canal Boulevard.

For weeks we have been suffering constant noxious fumes akin to living on a manure pile. The smell isn't just distasteful, it's become so strong as to make our air unbreathable.

Whereas before I was simply embarrassed by people visiting Richmond commenting on how much our city reeks, the problem has now become so bad it is affecting my health. I wake up at all hours, throat burning and coughing so hard I can't breathe, simply because I made the mistake of leaving my bedroom window open a crack. My throat is swollen, and I've coughed so hard some days that it has caused my throat to bleed.

I just cannot understand how Veolia has been repeatedly approved to contract with the City of Richmond, given that they have a such a long and documented history of being unable to run the plant in a responsible way and completely disregarding the health and safety of Richmond residents. This may very well be the worst public-health situation they have created, but it's by no means the first. Or even "one of the few." Veolia has repeatedly demonstrated either reckless disregard or abject incompetence in operating that wastewater facility properly – and it sits, puking dangerous fumes day and night, within a quarter mile of a middle school.

I implore you to take this matter seriously and do more to monitor Veolia and ensure that it is operating the wastewater facility in a way that doesn't put the health of Richmond's children and adults at risk.

Edith Alderette
116 Nicholl Avenue
Richmond

From: [UTR](#)
To: [City Clerk Dept User](#)
Subject: Public Comment - Agenda Item L.1, Veolia
Date: Sunday, December 10, 2023 8:48:09 PM

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I am unable to attend Tuesday's meeting regarding the Richmond Wastewater Treatment Plant that is managed by Veolia Water North America. Thank you for putting my comments below into the record.

The stench from Veolia woke me up on Santa Fe Ave last week, coughing and eyes burning in the middle of the night. No windows were open - this miasma made its way through air intake vents, then hung indoors for the rest of that night and even well into the next day. My dogs had repeated sneezing fits, me, a nagging headache.

I didn't write it down at the time, or call anybody - it was simply the worst of many similar days and nights recently in Pt Richmond. I don't open my windows lately. And hiking in the Miller Knox uplands, the air has been so pungent some days it's actually nauseating.

Whether or not these are major risks to our health, the regular assaults are clearly sickening.

And nothing new. But aside from long suffering Richmond residents, it often seems nobody gives a damn, because Veolia gets away with violating our air time after time, year after year, with nary a shrug of its corporate shoulders.

I'd like to think this could change, that Veolia can be forced to respect its neighbors and remediate the situation. It is in that spirit that I've shared these thoughts.

Thank you,
Karen Johnston
431 Santa Fe Avenue

Sent from my iPhone

From: [Leisa Johnson](#)
To: [City Clerk Dept User](#); [Eduardo Martinez](#); [Gayle McLaughlin](#); [Cesar Zepeda](#); [Soheila Bana](#); [Melvin Willis](#); [Doria Robinson](#); [Claudia Jimenez](#)
Cc: [Shasa Curl](#); [Dave Aleshire](#); [Dave Aleshire](#)
Subject: Public Comment - Agenda Item L.1, Veolia
Date: Tuesday, December 12, 2023 10:47:49 AM

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Dear Mayor and City Councilmembers,

I am writing in opposition to Veolia and once again requesting that you please direct staff to immediately open up a RFP to find a new manager of the Richmond Municipal Sewer District.

We all know that this plant has issues. It should have been closed down in 2001 and the City should have entered into an agreement with EBMUD.

Unfortunately, that did not occur and the powers that be in the City entered into an agreement with Veolia while Isaiah Turner, the City Manager at the time, and his wife, fair quite well out of the deal.

While this plant certainly has its challenges, that does not excuse the mismanagement and fraud that Veolia has demonstrated over the past 22 years under its management. Below is a high level summary of just some of this.

A. On July 2, 2008, the City sent Veolia a Demand Letter. In that letter, the City revealed that a forensic audit and legal review of the contract determined that Veolia had:

- failed to perform contracted work timely and appropriately;
- had charged and been paid for work that was not; and
- had consistently billed for work improperly, resulting in payments that are in excess of that provided for under the Contract.

Veolia had improperly charged the City for profit, costs, expense and for undocumented subcontractor work. Additionally, Veolia had consistently failed to comply with its obligation to competitively bid scopes of work.

Summary of the Claims:

Veolia has breached the Contract and violate and violated applicable CA law in numerous ways, including but not limited to:

- 1) invoicing for and receiving payment for work not performed;
- 2) submitting improper or marked-up costs;
- 3) improperly billing for profit and overhead;
- 4) billing “contingency” Task Order items without change order, change in scope or

explanation;

- 5) failing to perform Closed Circuit Television (CCTV) inspection and cleaning of the City's sewer systems;
- 6) neglecting to implement a Computer Maintenance Management System (CMMS);
- 7) failing to provide the requisite data for the City's Geographic Information System (GIS);
- 8) providing misinformation in support of the Master Plan and the Capital Improvement Plan (CIP);
- 9) failing to perform necessary capital improvements;
- 10) performing services without valid licensure, and illegally taking profits during this period;
- 11) violation of the subcontractor bidding process;
- 12) mismanagement and failure to take responsibility for sewer system overflows (SSO); and
- 13) numerous false claims under the California False Claim Act.

As per the Demand Letter, Veolia's errors and omissions caused the City over **\$11.6M** in breach of contract damages.

Many of those breaches entitled the City to treble damages, meaning an additional **\$14.4M**, not including **an additional \$10,000 penalty per false claim**.

Finally, Veolia's actions with respect to portions of the Contract rose to the level of fraud which, if proved, would have entitled the City to yet additional damages.

The City's demand letter called for Veolia to pay the City the sum of \$26M in settlement of those claims. Of note, that demand did not reflect a complete evaluation of the potential damages to the City, because the extent of the damages from certain of Veolia's failures, while very real, are currently impracticable to calculate.

The City settled for pennies on the dollar -- less than \$2M. Why?

The Public has never been told why the taxpayers were never made whole.

Of note, this settlement was approved under Gayle McLaughlin's watch when she was Mayor.

B. On July 7th, 2020, immediately after the City Council approved to increase the sewer rates for ~67% of Richmond property owners, predominantly in the lower income areas, by **another 37.5%** over the following five years, I pulled two consent calendar items that should have never been on there.

Ultimately, what came to light over the course of several council meetings, Veolia and a subcontractor did **not** actually complete work on 33 lines (as revealed by CCTV camera footage) that they deemed repaired & completed and charged us taxpayers for. Veolia got paid their 16.5% markup on work that was never completed. Veolia and the sub said the CCTV footage was "lost"; upon "redoing" it, it was determined that 14/33 lines were NOT repaired.

Based on just the 2018/2019 RAA contract and the resulting "Makeup Work" (how it was coded in the Agenda Report), it is clear that many of the same findings of alleged fraud that Veolia was found to have committed in 2008 were still happening 12 years later.

That led to yet additional litigation, which as I understand it, is still in arbitration.

C. For years I have been imploring this council to submit an RFP to identify a new facility manager.

Veolia's contract was due to expire in 2022 and it is my understanding that we were beyond the time period to have to pay an early termination fee.

What did we get instead?

Members of this council, including Mayor Martinez and Councilmember Willis, voted unanimously in 2018 to extend Veolia's contract another 5 years to 2027.

Why?

D. Over the last several years, we have experienced numerous H2S releases and stench that adversely affects the health and quality of lives of numerous residents, many of whom are seniors, workers and elementary students.

In 2023 alone, we have had numerous H2S releases that have **exceeded Veolia's permitted threshold of 60 ppb.**

- **In 10 out of 12 months we had more than one alert.**
- Most of those alerts exceed the 60 ppb threshold by **two- to three-fold**; one as high as **5.3-fold, 320 ppb**, on 8/14/2023.
- Based on my email records, we received the following # of alerts in excess of 60 ppb.
 - January: 30 alerts
 - February: 42 alerts
 - May: 10 alerts
 - June: 6 alerts
 - July: 8 alerts
 - August: 3 alerts; peak at 320 ppb on 8/14/2023
 - September: 3 alerts
 - October: 21 alerts
 - November: 2 alerts
 - December to date: 30 alerts
- **There are more alerts that are just below the 60 ppb threshold**, at which level you can readily smell and be adversely impacted by H2S.

E. It is my understanding that Veolia contracted with WR Forde for the work on Dornan Drive associated with the Ferry Point sewer lift pump station retrofit.

Last month they closed down Dornan Drive, and we were specifically told that this was in violation of their permit with the city.

This was simply unacceptable as they blocked off one of only two emergency ingress and egress routes out of BYC, and residents and workers were effectively trapped in the cove by numerous trains that morning, some for over 20 minutes.

When is the community's public health and safety finally going to be addressed by this City?

My questions before this council again:

1. When was the last forensic audit done and if it wasn't in the last year, then I respectfully request one is performed ASAP. Without this, we have no idea if Veolia perhaps owe taxpayers millions of dollars.
2. How much money has been spent on wastewater matters over the last 22 years?
3. Were competitive bids utilized for all said expenditures, including all associated contracts?
4. Is the City in compliance with the Baykeeper settlement agreement? If not, why not?
5. Has the City paid to perform repairs that did not need to be made? If so, why?
6. Who is minding the store and whose interest do they serve?
7. Why did the City settle with Veolia for less than \$2M in 2008/2009 under your watch, Vice Mayor McLaughlin?
8. Why are contractors who are alleged to have committed fraudulent activity or consistently underbid in order to win contracts and then submit multiple change orders (as relayed at the July 7th, 2020, city council meeting) still on the pre-qualified contractor list?
9. Knowing all of this, why, Mayor Martinez and Councilmember Willis, did you vote to extend Veolia's contract for 5 more years through 2027?
10. Why has the Council still not put out an RFP to identify a new facility manager?

Lastly, when you see your constituents at public events, please don't go up to them and tell them that, "**We all know Veolia is robbing us blind**", as former Councilmember Demnlus Johnson did to me (with witnesses) at a Black Lives Matter event in 2020. It's not funny and we deserve so much better than what we have been getting over the past 22 years.

The community is imploring you to please **represent us**, do what is right, and find a new manager for this plant ASAP.

Thank you.

Sincerely,
Leisa

From: [Philip Rosenthal](#)
To: [Soheila Bana](#); [Claudia Jimenez](#); [Eduardo Martinez](#); [Gayle McLaughlin](#); [Doria Robinson](#); [Melvin Willis](#); [Cesar Zepeda](#); [City Clerk Dept User](#)
Subject: Public Comment - Agenda Item L.1, Veolia
Date: Monday, December 11, 2023 11:49:27 AM

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Dear City Management, Staff and Council Members,

Please take the issues of the Veolia- managed sewage plant way more seriously than you have been.

City staff have a responsibility to monitor and enforce the work and environmental impact of its contractors.

City Councilmembers, please act as if this plant is in your district and demonstrate the same concern for the neighborhoods that are directly affected by the noxious fumes from this mismanaged facility as you would if your re- election was dependent on your actions.

Veolia has displayed bad faith for years and years, perhaps they should be replaced.

I vomited on the street while walking down the block last Friday night. Neighbors report headaches, dizziness and nausea. Even with windows closed, our houses are filled with a noxious stench.

Please realize that this plant and its contractor need constant monitoring and a more discerning eye.

KRGDS, Philip Rosenthal

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This message is intended to be confidential and may be legally privileged. It is intended solely for the addressee. If you are not the intended recipient, please delete this message from your system and notify Philip Rosenthal immediately. Any disclosure, copying, distribution or action taken or omitted to be taken by an unintended recipient in reliance on this message is prohibited and may be unlawful.

From: [Philip Rosenthal](#)
To: [City Clerk Dept User](#); [Cesar Zepeda](#); [Melvin Willis](#); [Doria Robinson](#); [Gayle McLaughlin](#); [Eduardo Martinez](#); [Dave Aleshire](#); [Claudia Jimenez](#); [Soheila Bana](#); [Shasa Curl](#)
Subject: Public Comment - Agenda Item L.1, Veolia
Date: Monday, December 11, 2023 9:12:05 PM
Attachments: [Sewage Treatent Plant letter 121123 Agenda Item L.1, Veolia to send.docx](#)

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Please confirm receipt of the below letter. The Neighborhood Council will discuss the response at our January meeting and we want the city manager and the Clerk to confirm receipt.

Thanks and KRGDS,

--

Philip Rosenthal
PRNC President

prnc.pres@gmail.com
(510)593-9017



December 11, 2023

City of Richmond
Shasa Curl, City Manager
Pamela Christian, City Clerk
450 Civic Center Plaza
Richmond CA

RE: Agenda Item Agenda Item L.1, Veolia

Dear City Staff and Council:

This letter comes from the PRNC board on behalf of the community. Our community has borne the ramifications of the noxious emissions from the Veolia-operated sewage treatment plant for years.

The community reports nausea, vomiting, headaches, and dizziness. Surrounding neighborhoods are dealing with stench outside and inside their homes.

Hydrogen sulfide (H₂S) readings are of serious concern as they are frequently exceeding their permitted level of 60 ppb. Using 2023 as an example, we have experienced numerous H₂S alerts in 10 of the 12 months (March & April were exceptions).

Of note:

- 1) The monitors have frequently detected excessive H₂S levels that appear to resolve within 4 to 25 minutes, only to then spike again a short time later.*
- 2) H₂S levels frequently exceed their permitted level by two- to three-fold, with the highest detected level in 2023 exceeding five times the permitted level (320 ppb on 8/14/2023).*
- 3) While their permitted H₂S threshold is 60 ppb, many people can be adversely impacted at significantly lower levels:*
 - a. Some community members have sensitive olfactory receptors and can smell H₂S when levels exceed 10 ppb on Veolia's monitors.*
 - b. Some even experience adverse health impacts (e.g., headaches, dizziness, nausea) at these lower levels.*

It is also concerning that Veolia has stated that their H₂S sensors are “suspect”, which begs more questions.

- 1) If the monitors are malfunctioning and potentially giving erroneous/false reads, then why can the community detect/smell H₂S and experience adverse symptoms (e.g., headaches, dizziness, nausea) during and outside of the alert windows?*
- 2) When the noxious H₂S stench is chronic, why aren't their sensors detecting this, even on calm days where wind patterns shouldn't be impacting the north and south sensors?*

With or without these H₂S sensors, thousands of residents, workers, and elementary students can smell and are breathing the noxious air, adversely affecting their health and quality of life.

Please hold Veolia responsible for the proper maintenance and operation of the plant, and accountable for notifying the City and community in a timely manner when they schedule maintenance or repairs, or have an operational malfunction, that may/does result in H₂S levels that exceed their permitted threshold.

Sincerely,

Philip Rosenthal

Philip Rosenthal, PRNC President

(510) 593-9017

prnc.pres@gmail.com

pointrichmond.org