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Russel D. Myrick
Attorney at Law

RDM LEGAL GROUP
Manchester Financial Building
7979 Ivanhoe Avenue
Fourth Floor, Suite 400
La Jolla, California 92037
P. 888.482.8266 | F. 858.244.7930
russel@rdmlg.com

August 11, 2017

SENT VIA FIRST CLASS MAIL, FACSIMILE, AND EMAIL

Mr. Terry E. Dixon, Esq.
City Attorney
City of Laguna Niguel
30111 Crown Valley Parkway
Laguna Niguel, CA 92677
Facsimile: (949) 362-4340
Email: <tdixon@cityoflagunaniguel.org>

RE: BROWN ACT VIOLATIONS | FREEDOM OF INFORMATION ACT REQUEST

Dear Mr. Dixon:

Unfortunately, it appears that multiple Brown Act violations have occurred in the City of Laguna Niguel in the last 60 days. As a litigation attorney and concerned citizen, I am troubled by the published accounts of the council's recent actions.

On or around July 17th, the law firm of Burke, Williams and Sorenson, LLP was retained to research the process for removing a mayor in a general law city, and to begin an investigation into allegations of bullying on the part of Mayor Slusiewicz. The contract executed between the City and law firm is for \$25,000.⁰⁰ or the maximum authority granted to a city manager. However, it was not until July 24 – **one week after the firm was retained** – that the City Council authorized staff to take said action.

At a special meeting called on July 24, the Council instructed staff to retain a law firm to:

- (1) research the process for removing the mayor and mayor *pro tem* in a general law city; and
- (2) investigate allegations made by then City Manager Rod Foster, that Mayor Slusiewicz had acted like a "bully."

Per the council vote, the findings of the law firm would be presented on August 7. Seven days after the July 24 vote, at the next regularly scheduled meeting (Aug. 1), the meeting scheduled for Aug. 7 was also referenced from the dais multiple times.

As you know, the law firm of Burke, Williams and Sorenson was in fact retained by Rod Foster and yourself on or around July 17 – one full week before the emergency meeting authorizing said action. **The strong implication is that the July 24 meeting was a sham hearing conducted for the purpose of legitimizing and ratifying an agreement that was made behind closed doors.**

If there was collusion and/or Brown Act violations in the lead up to the July 24 special meeting, as the facts clearly suggest, all actions taken at the hearing are null and void. Accordingly, there must be a new vote if the City wishes to retain a law firm, conduct an investigation or proceed with amending the by-laws in the desired manner.

Additionally, at the July 24 meeting a vote was held to conduct a meeting on Aug. 7 with two agenda items: (1) the findings of the law firm regarding the process for removing a *mayor* and *mayor pro tem* and (2) the findings of the investigation into the Mayor. As you are aware, no meeting was held on August 7. That the meeting was canceled and/or continued without public notice or input suggests yet another decision was made behind closed doors and in violation of the Brown Act.

Is the meeting notice for August 14 a continuation of the August 7 meeting, or a separately called for special meeting? The public has a right to know, but it appears there is an effort to obfuscate the process. The August 14 agenda includes the report on the process for removing the mayor, but does not mention a report on the status of the investigation. Replacing the second item is a newly agendized matter calling for the removal of the Mayor. How is it that a meeting date and agenda voted on in open-session was radically changed behind closed doors?

We have reason to believe that the investigation has yet to be launched and no witnesses have been interviewed. Accordingly, there have been zero findings. The appearance is that there has been a coordinated effort by certain members of the City Council to bury this fact and keep it from being included in the public debate scheduled for August 14. Why?

The City Council has the right to begin the process for taking the unprecedented action of removing a sitting mayor. However, the process must be done in the open and cannot be the product of secret discussions conducted via text messages and phone calls. The undisputable facts outlined above call into question the legitimacy and legality of the meeting scheduled for August 14. **Please be advised, that if the August 14 meeting proceeds as scheduled, it will compound the prior Brown Act violations, constitute a fresh violation and likely result in litigation.**

FREEDOM OF INFORMATION ACT/CALIFORNIA PUBLIC RECORDS ACT REQUEST.

Pursuant to the California Public Records Act § 6250 et seq., this firm is requesting an opportunity to inspect or obtain copies of public records that include the following:

1. Any and all documents or communications that relate to the hiring of Burke, Williams & Sorensen, LLP by Rod Foster on behalf of the City of Laguna Niguel on or about July 17, 2017;
 2. Any and all documents or communications that relate to or describe the services sought and included with the City of Laguna Niguel's retention of Burke, Williams & Sorensen, LLP.;
 3. Any and all documents or communications that relate to or reflect the findings of any investigation conducted by Burke, Williams & Sorensen, LLP. on behalf of the City of Laguna Niguel;
 4. Any and all documents or communications between City staff related to the scheduling of the city council meeting scheduled on July 24, 2017;
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5. Any and all documents or communications between City Council members related to the scheduling of the city council meeting scheduled on July 24, 2017;
 6. Any and all documents or communications between City staff and City Council members related to the scheduling of the city council meeting scheduled on July 24, 2017;
 7. Any and all documents or communications amongst City Staff regarding the changing or cancelation of the meeting scheduled for August 7, 2017;
 8. Any and all documents or communications amongst members of the city council regarding the changing or cancelation of the meeting scheduled for August 7, 2017;
 9. Any and all documents or communications amongst members of the city council and city staff regarding the changing of the meeting scheduled for August 7, 2017.

 10. Any and all documents or communications amongst members of the City Council regarding the scheduling of a meeting on August 14, 2017.
 11. Any and all documents or communications amongst members of City staff regarding the scheduling of a meeting on Aug. 14, 2017
 12. Any and all documents or communications amongst members of City staff and members of the City Council regarding the scheduling of a meeting on Aug. 14, 2017

 13. All contracts executed by City Manager Rod Foster uner the authority granted to the City Manager pursuant Laguna Niguel Municipal Code, Sec. 3.7.4 – Award of Contracts.
 14. Any and all documents or communications among City of Laguna Niguel staff or the City's councilmen mentioning Jerry Slusiewicz from March 1, 2017 through the present;

Please note that these requests include text message communications.

A PROMPT RESPONSE IS REQUIRED BY LAW

Pursuant California Public Records Act § 6253(c), a response to this request is required within ten business days. If access to the records we are requesting will require additional time, please contact us with information about when we might expect copies or have an opportunity to inspect the records. If you determine that some but not all of the information requested is exempt from disclosure and that you intend to withhold it, we request that you redact said information for the time being and make the rest of the information requested available.

If any information is withheld, we respectfully request that you provide a signed notification citing legal authorities on which you rely if you determine that any or all of the information is exempt and will not be disclosed. If there is a denial to this request, please notify this office of appeal procedures available through the City of Laguna Niguel.

FEE WAIVER REQUESTED AS INFORMATION SOUGHT IS IN THE PUBLIC'S INTEREST

If there are any fees for searching or copying these records, please inform us if the cost will exceed \$300.00. We would however also like to request a waiver of all fees in that the disclosure of information is in the public interest and will contribute significantly to the public's

understanding of the events that led to the necessity of using tax payer funds to retain a law firm and commence an investigation of the City Mayor, Jerry Slusiewicz and the decisions regarding the timing and agenda setting for certain special meetings. In addition, it is believed that this information will reveal Brown Act violations. This information is not being sought for commercial purposes.

CONCLUSION

Your anticipated courtesy and cooperation in conformity with applicable law in bringing this matter to a speedy and amicable resolution is much appreciated. Should you have any questions or concerns regarding the above, please do not hesitate to contact the undersigned.

Regards,

A handwritten signature in black ink, appearing to read "Russel Myrick". The signature is fluid and cursive, with a prominent initial "R" and "M".

RUSSEL MYRICK, ESQ.