

November 18, 2002

To: City Attorney Casey Gwinn
From: Councilmember Donna Frye
Re: November 19, 2002 Closed Session

Dear Casey,

I am writing to express my strong concerns about the legality of meeting in closed session on November 19, 2002 to discuss Item #7. In my opinion, this item does not meet the requirements of California Government Code section 54956.9(b)(1) regarding significant exposure to litigation, and should, therefore, be held in open session. While I rely upon the City Attorney for legal advice, it is the action of docketing #7 by your office that is causing me such concern and conflict.

I am also concerned about the circumstances under which this item was docketed and previously discussed in closed session, since the action did not involve pending litigation, anticipated litigation, or significant exposure to litigation. After researching the Brown Act requirements this weekend, I believe the action taken at that meeting was not authorized by some specific exemption and was done solely because it was considered controversial. Moreover, it is a direct result of the prior action in closed session that Item #7 has been docketed for the November 19, 2002 closed session.

I am requesting that you provide to me, in writing, a brief explanation and the specific sections of the Brown Act that:

- allow Item #7 to be docketed for closed session on November 19, 2002
- allowed the docketing of and past action taken in closed session (to withhold information from the public)
- provide necessary action to cure or correct the past action if it is determined that it was in violation of the Brown Act

I am also requesting that you provide me with a copy of the closed session docket for this item from earlier this year when it was first heard in closed session, the City Attorney memorandum that noticed the item and a copy of the existing study referenced in Item #7 per the Public Records Act.

I take my duties and obligations as a city councilmember very seriously and have been quite concerned about the issue discussed in Item #7 from the time it was first heard in closed session. The best I knew to do after the closed session, was to ask publicly that the study referenced in Item #7 be released. Despite the fact

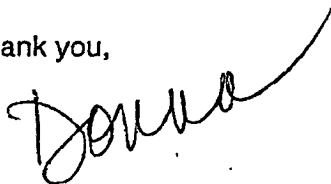
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that it is a public document and its existence was common knowledge, when I asked about the study in open session I was told it did not exist.

Due to the urgency of this, I would appreciate your immediate attention and written response.

Thank you,

A handwritten signature in cursive script, appearing to read "Dennis".

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