

RESOLUTION NO. 144-21

**A RESOLUTION OF THE COUNCIL OF THE CITY OF RICHMOND
CENSURING MAYOR TOM BUTT FOR RELEASING CONFIDENTIAL
ATTORNEY-CLIENT PRIVILEGED INFORMATION AND CONFIDENTIAL
INFORMATION FROM CLOSED SESSION AND DIRECTING THE CITY
ATTORNEY TO REFER THE MATTER TO THE CONTRA COSTA COUNTY
GRAND JURY AND THE CONTRA COSTA COUNTY DISTRICT ATTORNEY**

WHEREAS, pursuant to Section 3 of Article IV of the Charter of the City of Richmond, it is the duty of the City Attorney to act as the legal advisor to the City Council of the City of Richmond; and

WHEREAS, the City Attorney in performing her/his duties pursuant to the Charter periodically provides confidential attorney client privileged information to the city council; and

WHEREAS, the holder of the attorney-client privilege is the City of Richmond, acting through the majority of its City Council; and

WHEREAS, the attorney-client privilege can only be waived and confidential information released, by a majority vote of the entire city council and not by the actions of an individual member of the City Council; and

WHEREAS, the Brown Act explicitly prohibits the unauthorized disclosure of confidential information acquired in a closed session by any person present absent an affirmative; and

WHEREAS, each member of the City Council, including the Mayor, owes a duty to the City of Richmond, not to publicly release confidential attorney-client privileged information or confidential closed session information absent an affirmative vote by a majority of the City Council; and

WHEREAS, on November 5, 2021, Mayor Butt publicly released the contents of a confidential attorney-client privileged communication in his online E- Forum; and

WHEREAS, during closed session on November 9, 2021, as reported out in open session during that same meeting, a majority of the members of the City Council voted to direct the City attorney to prepare a resolution for the Council to consider in public to censure Mayor Butt for disclosing attorney client communications in his November 5, 2021, E-Forum post, and to direct the City Attorney to report this action to the Contra Costa County Grand Jury and the Contra Costa County District Attorney; and

WHEREAS, on November 9, 2021, after the City Council had given direction to the City Attorney and contrary to the advice of the City Attorney, Mayor Butt publicly revealed confidential information acquired during closed session during the public portion of the City Council meeting; and

WHEREAS, on November 16, 2021, Mayor Butt publicly disclosed the contents of another attorney-client privileged communication in his on line E-Forum; and

WHEREAS, the actions taken by Mayor Tom Butt, as set forth above, violated his duties as mayor to keep such information confidential; and

WHEREAS, by disclosing confidential attorney-client communications, Mayor Butt has made it impossible for the City Attorney's Office to perform its duty to provide confidential legal advice to the City Council so that the City Council may make informed decisions on behalf of the City. Because of the risk that Mayor Butt will continue to disclose confidential attorney-client communications to the public, Mayor Tom Butt has now put the City Attorney's Office in the untenable position of having to weigh the legal risks to the City of providing confidential legal advice to the City Council.

NOW, THEREFORE, BE IT RESOLVED the Council of the City of Richmond hereby censures Mayor Tom Butt for breaching his duty as mayor not to publicly release confidential attorney-client privileged information;

BE IT FURTHER RESOLVED by the Council of the City of Richmond that the City Attorney is directed to report the actions of Mayor Tom Butt described in this resolution to the Contra Costa County Grand Jury and the Contra Costa County District Attorney.

I certify that the foregoing resolution was passed and adopted by the City Council of the City of Richmond at a regular meeting thereof held November 23, 2021, by the following vote:

AYES: Councilmembers Jimenez, Martinez, McLaughlin, Willis, and Vice Mayor Johnson III.
NOES: Councilmember Bates and Mayor Butt.
ABSTENTIONS: None.
ABSENT: None.

PAMELA CHRISTIAN
CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:

THOMAS K. BUTT
Mayor

Approved as to form:

TERESA STRICKER
City Attorney

State of California }
County of Contra Costa } : ss.
City of Richmond }

I certify that the foregoing is a true copy of **Resolution No. 144-21**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on November 23, 2021.



Pamela Christian, Clerk of the City of Richmond