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CITY OF OAKLAND



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Office of the City Attorney  
Barbara J. Parker  
City Attorney

November 1, 2010

(510) 238-3601  
FAX: (510) 238-6500  
TTY/TDD: (510) 238-3254  
(510) 238-3815

**President Reid and Members of the City Council  
Oakland, California**

**Re: Hearing Pursuant to Oakland Municipal Code Section 2.20.270(D) to (a) Consider Whether to "Cure and Correct" an Alleged Violation of the Sunshine Ordinance Resulting from Complaints that All Public Speakers were not Given An Opportunity to Speak before Council Passed a Motion Appointing Victor Uno and Jakada Imani to the Port Board of Commissioners at the Council's October 18, 2011 Meeting; and (b) If So, Whether to Affirm or Supersede the Challenged Action After First Taking Public Testimony**

**President Reid and Members of the City Council:**

**Attached is the City Attorney's ruling that was requested by the Rules Committee.**

Very truly yours,

A handwritten signature in cursive script, appearing to read "Barbara J. Parker".

**BARBARA J. PARKER  
City Attorney**

**ITEM 11  
City Council  
November 1, 2011**

**Walther, Deborah**

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**Subject:** FW: Cure and Correct re public speakers on Port Commission appointments - 10/18/11 Meeting.

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**From:** Parker, Barbara  
**Sent:** Thursday, October 20, 2011 2:44 PM  
**To:** Quan, Jean; DL - Council Members  
**Cc:** Santana, Deanna; Johnson, Scott; Comu, Sharon; Moreno, Doryanna  
**Subject:** Cure and Correct re public speakers on Port Commission appointments - 10/18/11 Meeting.

**Dear Mayor Quan, President Reid and Members of the Council:**

**Introduction:** At the October 18<sup>th</sup> Council meeting, the Council passed a resolution appointing Victor Uno and Jakada Imani to the Port Commission. At the October 21 meeting of the Rules Committee, the committee asked the City Attorney for a ruling regarding the following question.

**Question:** Did the City Council give all public speakers the opportunity to speak prior to taking action on the appointments of Victor Uno and Jakada Imani to the Port Commission as required by the Sunshine Ordinance and the Brown Act?

**Discussion:** A review of the video of the meeting shows the Council did not take action before it advised the public speakers of their right to address the Council. Prior to voting on the appointments, President Reid announced multiple times that public speakers had the right to speak if they chose to do so. No speakers approached the podium before the Council voted on the item.

However, after President Reid called for public speakers, there was a interruption in the chamber involving a show of support for Mr. Imani that apparently caused some confusion as to when public speakers would have an opportunity to address the Council. The Council voted immediately following this interruption without expressly giving speakers on both sides of the issue the opportunity to speak.

President Reid's announcement that the vote on the appointment of the commissioners would be "bifurcated" also contributed to the confusion regarding the timing of public comment. Clearly, a number of members of the public were confused as to the timing and said as much to the Council following the vote.

**Conclusion:** Given the confusion in the chamber and timing of the vote, we conclude that public speakers on both sides of the issue were not given a clear opportunity to speak before the Council voted on the item as required by the Sunshine Ordinance and Brown Act.

It is of the utmost importance that citizens have a voice in the business conducted on their behalf by the Council. To fully comply with the requirement that the public has a meaningful opportunity to address the Council before it takes action, this item must be re-noticed to "cure and correct."

Barbara J. Parker  
City Attorney  
Oakland City Attorney's Office  
One Frank Ogawa Plaza, Sixth Floor  
Oakland, CA 94612  
(510) 238-3815

"For all those whose cares have been our concern, the work goes on, the cause endures, the hope still lives and the dream shall never die." - Senator Edward M. Kennedy