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**Via E-Mail and U.S. Mail**

City of Highland City Council  
27215 Base Line  
Highland, CA 92346  
[information@cityofhighland.org](mailto:information@cityofhighland.org)

Re: Harmony Specific Plan (SPR-011-001) EIR SCH No. 2012071065

Dear Mayor McCallon and Honorable City Council Members:

At its July 21, 2106 special meeting, the City Council refused to take public comment on the Harmony project, which was the only item on the notice of the meeting's agenda. On behalf of the Greenspot Residents Association I am writing to ensure you understand that this refusal is a plain violation of the Ralph M. Brown Act, Government Code sections 54950 et seq.

The Act provides that “[e]very notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.” (Gov. Code § 54954.3(a) (emphasis added).) There is no exception for agenda items that have been continued from previous meetings, nor for items on which the City has previously heard public comment. The public must be afforded an opportunity to comment on every item on every agenda.

The City Attorney's June 30 statement regarding public comment at the continued special meeting suggests that this violation was not an isolated incident, but was the City's intent and policy: “We would try to make it clear on the agenda for the next meeting that the public comment period for this hearing has been completed and that the

hearing was open only for the purposes of rebuttal and for the Council receiving this response information.”<sup>1</sup>

At the July 21 special meeting, one Council member said “This meeting is for our benefit, the Council. It’s not for the public’s benefit.”<sup>2</sup> In light of this outrageous misunderstanding of the government’s relationship to the people, it is worth quoting the preamble to the Brown Act in its entirety:

In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State *exist to aid in the conduct of the people’s business*. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

*The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.*

(Gov. Code § 54950 (emphasis added).)

I strongly urge you to adhere to the spirit of the Brown Act, as well as its clear mandate, by acknowledging this error on the public record and correcting it by allowing public comment on the Harmony project at every meeting for which it is on the agenda. The environmental review of this project is already seriously flawed; adding procedural flaws in the form of Brown Act violations only increases the difficulty the City faces.

Moreover, at the June 30 special meeting, the City Attorney offered the opinion that any material that the Council receives after that date (other than the applicant’s

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<sup>1</sup> Audio file at [www.cityofhighland.org/CityCouncil/Minutes/2016/cc%20Harmony%20Meeting%2006-30-16.mp3](http://www.cityofhighland.org/CityCouncil/Minutes/2016/cc%20Harmony%20Meeting%2006-30-16.mp3) (“June 30 Audio”), starting at 4:07:23

<sup>2</sup> Audio file at [www.cityofhighland.org/CityCouncil/Minutes/2016/cc%20Harmony%20Meeting%2007-21-16.mp3](http://www.cityofhighland.org/CityCouncil/Minutes/2016/cc%20Harmony%20Meeting%2007-21-16.mp3), starting at 3:24.

rebuttal) would be excluded from the record of the Council's decision.<sup>3</sup> This assertion misapprehends the legal status of such submittals under the California Environmental Quality Act. Any claim "presented to the public agency orally or in writing . . . prior to the close of the public hearing on the project" is an available ground for CEQA litigation and part of the administrative record. Pub. Res. Code §§ 21167.6(e)(6, 7), 21177(b). The public hearing on Harmony is still open, and any material that the public submits will be a part of the hearing's record.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Gabriel M.B. Ross

cc: Craig A. Steele, City of Highland City Attorney

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<sup>3</sup> June 30 Audio, starting at 4:08:59.