



JEFFREY LEWIS

ATTORNEY AT LAW

October 4, 2018

VIA E-MAIL (jerry.duhovic@rpvca.gov, eric.alegria@rpvca.gov) **ONLY**

Hon. Jerry V. Duhovic, Mayor Pro Tem
Hon. Eric Alegria, Councilmember
City of Rancho Palos Verdes
30940 Hawthorne Boulevard
Rancho Palos Verdes, CA 90275

RE: In re Investigation of Unauthorized Disclosures

Mayor Pro Tem Duhovic and Councilmember Alegria,

I am writing to you in your capacities as members of the City's subcommittee for the investigation of unauthorized disclosures from closed door meetings of the council. As you know, I am litigation counsel for former Mayor Brian Campbell. He retained me to assist him in response to the City's failure to provide him an attorney at a deposition in the Green Hills litigation and, thereafter, to comply with a legislative subpoena served by the City. In the course of that representation, I made a Public Records Act request to the City and received the enclosed email exchange between Green Hills attorney, Ellen Berkowitz, and the then-City Attorney David Aleshire. I am writing this letter on behalf of former Mayor Campbell and other residents of the City who have concerns about the City's transparency and handling of the current investigation into leaks of closed-door meetings. I would urge you to carefully review the entirety of the enclosed email exchange closely and make your own judgments about the implication of the statements made therein. The email is disturbing for the following reasons:

First, your subcommittee has been charged with investigating leaks from closed door session meetings of the City Council. On November 2, 2017, 12:14 p.m., Dave Aleshire disclosed to Ms. Berkowitz confidential information shared with the City Council in closed session. That is an unauthorized leak that the City should investigate. On October 31, 2017, 6:19 p.m. Mr. Aleshire disclosed to Sharon Loveys a costs summary shared with the City Council in closed session. That is also an unauthorized leak that the City should investigate.



Second, Sharon Loveys is a member of the public (albeit not a City resident). She has in the past served Public Records Act requests on the City. The enclosed exchange documents a tacit agreement between Mr. Aleshire and Ms. Berkowitz to dupe Ms. Loveys about the subject matter of her Public Records Act request – the true costs incurred by the City in the Green Hills litigation. On October 31, 2017, Mr. Aleshire emailed Ms. Loveys a spreadsheet and misled Ms. Loveys to conclude the spreadsheet was an accurate summary of Green Hills related litigation costs. Mr. Aleshire suggested there are “pages of bills supporting” the costs summary. Mr. Aleshire’s October 31, 2017 statement to Ms. Loveys about the accuracy of the costs was a lie. Mr. Aleshire thereafter emailed Ms. Berkowitz on November 2, 2017 and stated:

[Sharon Loveys] made a public records act request. **By being friendly and giving her summaries of costs I’m avoiding giving her actual bills** which are disclosable once litigation is concluded. Wanted to give her summary I’d given to Council so consistent. **If we’d gone back earlier in time would have been higher.**¹

(Emphasis added).

Third, the email chain reflects that Mr. Aleshire is the originator of the (unfounded) accusation that former Mayor Brian Campbell leaked information to Ms. Loveys. On November 2, 2017, Mr. Aleshire emailed Ms. Berkowitz that Brian Campbell “may have told [Sharon Loveys] that....” There was no basis for that statement. To the contrary, by November 2, 2017, the information at issue – the \$700,000 that the City had incurred in Green Hills related litigation, was a piece of public information and included in staff reports made to the RPV Planning Commission.²

Coupled with the foregoing, the California State Bar has opened an investigation (State Bar Proceeding No. 18-O-16022) into Aleshire & Wynder,

¹ The amount of litigation costs is significant with respect to the City’s transparency to its residents, the intense public interest surrounding the manner of the approval of the Green Hills mortuary, the settlement of claims between Ms. Loveys and the City and the obligations owed by Green Hills under an indemnity agreement with the City.

² On October 26, 2017, Sharon Loveys filed a written appeal to the planning commission of a grading permit. The appeal included a reference to the \$700,000 figure. That October 26, 2017 appeal was thereafter included in public staff reports.



LLP over a complaint regarding Dave Aleshire's improper disclosure of confidential communications to City Resident Michael Huang, Dave Aleshire's breach of the duty of loyalty by siding with Green Hills against the City's interests with respect to former Mayor Brian Campbell, duping both Sharon Loveys and the RPV city council regarding the true costs of the Green Hills litigation and other issues regarding Mr. Aleshire's handling of the Green Hills litigation, indemnity agreement and Public Records Act requests.

Based on these developments, I'd ask you to consider the following requests:

1. The law firm of Aleshire & Wynder should recuse itself from any further investigations into the leaks of Green Hills related closed session items. That firm has no business investigating former Mayor Campbell or anyone else for the allegation of leaks of closed session information about Green Hills. At best, Mr. Aleshire is a witness and the complaining party who originated this accusation. Additionally, Mr. Aleshire himself improperly disclosed closed session materials on October 31, 2017 and November 2, 2017 and is now the focus of an investigation by the State Bar. In either event, to avoid even the appearance of impropriety, Aleshire & Wynder should recuse itself. The existence of an open State Bar investigation against Aleshire & Wynder compels the conclusion that Aleshire & Wynder cannot offer a neutral and dispassionate analysis of the evidence on the question of leaks.
2. A neutral law firm should be hired to continue the investigation into closed session leaks. If further legislative subpoenas are issued by the City, a practice I personally and many in the community find abhorrent, those subpoenas should be directed to Ms. Berkowitz and Aleshire & Wynder. Those subpoenas should seek all communications between those two law firms on the subject of the Green Hills litigation.
3. The investigation should be broadened to include whether Mr. Aleshire had sought and obtained City Council approval before making the October 31, 2017 disclosure to Ms. Loveys and the November 2, 2017 disclosure to Berkowitz and if any RPV council members were individually involved.
4. The subcommittee should examine how Ms. Loveys' Public Records Act request was handled by the City, including the enclosed email exchange and the subcommittee should report back to the full City Council its findings on whether the City Attorney's concerted actions with Green Hills and against the interests of Ms. Loveys was in the City's best interests and if it is consistent with the law.



Putting the legalities aside, the enclosed emails do not portray the City in a positive light. After the City's actions in approving the Green Hills construction that impacted Ms. Loveys' home, she deserved more than a concerted effort between Mr. Aleshire and Ms. Berkowitz to deceive her. I look forward to your prompt and written confirmation that Mr. Aleshire's firm has recused itself from any further involvement in this matter.

Very truly yours,

Jeffrey Lewis

cc: Susan Brooks (susan.brooks@rpvca.gov)
John Cruikshank (john.cruikshank@rpvca.gov)
Ken Dyda (ken.dyda@rpvca.gov)
Noel Weiss, Esq. (noelweiss@ca.rr.com)
Karl Olsen (kolson@cofolaw.com)

Encl.

Enclosure

From: Dave Aleshire <daleshire@awattorneys.com>
Sent: Friday, November 03, 2017 7:19 PM
To: 'berkowitz@gtlaw.com'
Cc: Doug Willmore
Subject: RE: Green Hills

Categories: Red Category, Responsive

No—Those costs calculations are not confidential at this point. She asked for a summary of costs. This is in a form I've already organized it. In fact, it really only shows costs since we came on board. If I hadn't given her this, and probably satisfied her question, and if I went back over 3-4 years the summary would be far more.

From: berkowitz@gtlaw.com [mailto:berkowitz@gtlaw.com]
Sent: Friday, November 03, 2017 4:29 PM
To: Dave Aleshire
Cc: DWillmore@rpvca.gov
Subject: RE: Green Hills

Do you think there's any problem with the fact that you gave her an exhibit that was presented to Council in closed session?

Ellen Berkowitz
Shareholder
Greenberg Traurig, LLP | 1840 Century Park East
Suite 1900 | Los Angeles, CA 90067-2121
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From: Dave Aleshire [mailto:daleshire@awattorneys.com]
Sent: Thursday, November 02, 2017 12:14 PM
To: Berkowitz, Ellen (Shld-LA-LDZ-RE)
Cc: DWillmore@rpvca.gov
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Thanks.
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Cc: DWillmore@rpvca.gov
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To: Dave Aleshire
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Please advise.

Thank you.
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Let me know if there is anything else you need.

Dave

From: Dave Aleshire
Sent: Tuesday, October 31, 2017 6:19 PM
To: 'sharon.loveys@yahoo.com'
Cc: Teresa Takaoka; Juliette Tran; Rebecca S. Burleson; Doug Willmore; 'Emily Colborn'
Subject: Green Hills: Request for Cost Information

Sharon—

Teresa has passed on to me your requests concerning costs in connection with the Green Hills litigation. I've attached a cost summary sheet we did with the Council. You'll see that it is labeled Exhibit B. There was an Exhibit A, of course. The difference is that Exhibit A excluded charges on the public records items which were about \$25,000 and also another \$25,000 which was time spent on researching and writing various closed session memos we did for Council. I gave you B as it was therefore about \$50,000 higher than Exhibit A.

Additionally, your email mentioned the investigation expenses before we came on board of the Lilley Planning Group—there were several consultants involved and I'm told the total cost of that personnel investigation was \$24,535 which you can add to Exhibit B if you are going back to that.

I should mention that in these costs we've included not only costs of answering your lawsuits, but also public record requests, and also research on various legal issues which arose. Another cost was negotiating an indemnification agreement with Green Hills. Green Hills claims that they are not responsible for many costs incurred before the indemnification agreement, and that other costs, like our researching memos for the Council and responding to public records requests, are not their responsibility (which is why we did an exhibit without them).

Like everything else—it's all controversial—but I thought basically you wanted a simple over view of costs and I felt the attachment I used with council would be the simplest way to summarize. There are pages of bills supporting this, and I can talk to you or give you specifics on anything else you might need.

Thanks again,

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Categories: Red Category, Responsive

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From: Dave Aleshire <daleshire@awattorneys.com>
Sent: Thursday, November 02, 2017 7:31 PM
To: 'berkowitz@gtlaw.com'
Cc: Doug Willmore
Subject: RE: Green Hills

Categories: Red Category, Responsive

We have had the same concerns.

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Thanks again,

Dave

If you are not an intended recipient of confidential and privileged information in this email, please delete it, notify us immediately at postmaster@gtlaw.com, and do not use or disseminate such information.

From: Dave Aleshire <daleshire@awattorneys.com>
Sent: Thursday, November 02, 2017 12:14 PM
To: 'berkowitz@gtlaw.com'
Cc: Doug Willmore
Subject: RE: Green Hills

Categories: Red Category, Responsive

I didn't know that. It sounds like Brian may have told her that as in closed session we did say that was the upper limit of what we could ask for. In my letter to you I put that number into the letter to show how reasonable we were being and then decided to take it out so that my letter wouldn't be used as evidence we were settling too low. Didn't know she already had it!

From: berkowitz@gtlaw.com [mailto:berkowitz@gtlaw.com]
Sent: Thursday, November 02, 2017 12:00 PM
To: Dave Aleshire
Cc: DWillmore@rpvca.gov
Subject: RE: Green Hills

Got it. Have you seen the appeal she filed in connection with the grading permit? In the appeal, she asserts that GHMP has refused to pay the City \$700,000 in fees. Wondering where she might have gotten that information.

Thanks.
Ellen

Ellen Berkowitz
Shareholder
Greenberg Traurig, LLP | 1840 Century Park East
Suite 1900 | Los Angeles, CA 90067-2121
Tel +1 310 586 7763 | Mobile + 1 310 592 3479
berkowitz@gtlaw.com | www.gtlaw.com



From: Dave Aleshire [mailto:daleshire@awattorneys.com]
Sent: Thursday, November 02, 2017 11:47 AM
To: Berkowitz, Ellen (Shld-LA-LDZ-RE)
Cc: DWillmore@rpvca.gov
Subject: RE: Green Hills

She made a public records act request. By being friendly and giving her summaries of costs I'm avoiding giving her actual bills which are disclosable once litigation is concluded. Wanted to give her summary I'd given to Council so consistent. If we'd gone back earlier in time would have been higher.

From: berkowitz@gtlaw.com [mailto:berkowitz@gtlaw.com]
Sent: Wednesday, November 01, 2017 4:38 PM
To: Dave Aleshire

Cc: DWillmore@rpvca.gov

Subject: RE: Green Hills

I wasn't aware that our communications regarding costs were public. I was under the impression they were discussed in closed session, and that our correspondence was confidential.

Please advise.

Thank you.

Ellen

Ellen Berkowitz

Shareholder

Greenberg Traurig, LLP | 1840 Century Park East

Suite 1900 | Los Angeles, CA 90067-2121

Tel +1 310 586 7763 | Mobile + 1 310 592 3479

berkowitze@gtlaw.com | www.gtlaw.com



From: Rebecca S. Burleson [<mailto:rburleson@awattorneys.com>] **On Behalf Of** Dave Aleshire

Sent: Wednesday, November 01, 2017 4:14 PM

To: Berkowitz, Ellen (Shld-LA-LDZ-RE)

Cc: Doug Willmore

Subject: FW: Green Hills

Sent on behalf of Dave Aleshire

Ellen—Here is follow up from your meeting with Doug where you discussed a possible settlement of our fee dispute. Green Hills requested a written offer from our side. However, I wanted to also send you an email I sent to Sharon Loveys concerning a public records request that she made. So it seems they will be making the claim that our costs in addition to the actual settlement amount was substantial. I wanted you to be aware of this.

Let me know if there is anything else you need.

Dave

From: Dave Aleshire

Sent: Tuesday, October 31, 2017 6:19 PM

To: 'sharon.loveys@yahoo.com'

Cc: Teresa Takaoka; Juliette Tran; Rebecca S. Burleson; Doug Willmore; 'Emily Colborn'

Subject: Green Hills: Request for Cost Information

Sharon—

Teresa has passed on to me your requests concerning costs in connection with the Green Hills litigation. I've attached a cost summary sheet we did with the Council. You'll see that it is labeled Exhibit B. There was an Exhibit A, of course. The difference is that Exhibit A excluded charges on the public records items which were about \$25,000 and also another \$25,000 which was time spent on researching and writing various closed session memos we did for Council. I gave you B as it was therefore about \$50,000 higher than Exhibit A.

Additionally, your email mentioned the investigation expenses before we came on board of the Lilley Planning Group—there were several consultants involved and I’m told the total cost of that personnel investigation was \$24,535 which you can add to Exhibit B if you are going back to that.

I should mention that in these costs we’ve included not only costs of answering your lawsuits, but also public record requests, and also research on various legal issues which arose. Another cost was negotiating an indemnification agreement with Green Hills. Green Hills claims that they are not responsible for many costs incurred before the indemnification agreement, and that other costs, like our researching memos for the Council and responding to public records requests, are not their responsibility (which is why we did an exhibit without them).

Like everything else—it’s all controversial—but I thought basically you wanted a simple over view of costs and I felt the attachment I used with council would be the simplest way to summarize. There are pages of bills supporting this, and I can talk to you or give you specifics on anything else you might need.

Thanks again,

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