

November 3, 2024

RE- Closed Session on Section 14, Reparations, and Mayor Frank Bogert

Dear Mayor and City Council,

We understand that the City Council will be dealing with the Section 14 historical consultant report on November 7 in closed session. We believe the City Council has made significant strides to understand the complexities of what transpired in Section 14 and in turn what Frank Bogert's role as mayor was. We are hopeful and optimistic that the City and Friends of Frank Bogert can move forward positively. In dealing with correcting the record regarding the HRC Frank Bogert Monument Report, apology resolution, statue relocation, and other retractions which are needed to correct the past egregiously false allegations. The city cannot have conflicting city documents in the record if it hopes to move forward.

We strongly object to considering this report in closed session. As the City Council knows, there are public comments before a closed session and the public has the right to know what the new facts are to provide meaningful public comment. In the interest of transparency and to engender trust, we suggest the report be released to the public immediately and that discussion encouraged.

Additionally, the scheduled November 14 open meeting will not afford the public sufficient time to read, evaluate, and debate what should be a historic context report with hundreds of pages. The city council appears to have backed itself into a political corner and after over 4 years of work it is rushing a decision to accommodate a winding down election cycle clock. This is not fair to the community and undermines the Mayor and City Council members' very own words regarding open discussion and transparency. It creates an appearance of hiding and rushing, calculated to be after the larger election, and before the citizens can weigh in.

The commitment of Council to hire a historical consultant was made in public session in April 2023. The content of the consultant's report is clearly public information and should not be hidden under the guise of a threatened lawsuit. The report should be released to the public and with adequate time for public review. The Council should not take any action in closed or open session regarding Section 14 before a full public discussion. This Council should wait for the newly-elected members to fully consider all the facts which have come to light before spending millions of taxpayer dollars.

At the April 27, 2023 meeting, members of the City Council stated that the city needed to hire a historian to research Section 14 and provide objective facts about the

circumstance under which it was cleared **before** making a decision about Section 14 and reparations. Council member Middleton stated, "I think we have to have a consensus as to what it was, specifically, that we did wrong and I don't believe we have that consensus today." She further stated she has "**a fiduciary responsibility to the City of Palm Springs and to the people in the City of Palm Springs**" to do so. Council member Bernstein stated that the council "needed in-depth research" and "objective research into the historical context." Council member deHarte said that the council needed to "verify the historical context of Section 14." Mayor Garner stated. "Our goal as a council is to make the [reparations discussion] an **open and participative process, working with the community** to determine a fair outcome for everyone."

Instead, the Council delayed more than a year in contracting for the historical analysis. When a contract was finally authorized (April 2024) Mayor Bernstein stated, "The council values an external third party who will analyze historical documents and provide their perspective which will provide the city and **all stakeholders** with a comprehensive report of Section 14."

Despite this commitment, the City Council made a Section 14 settlement offer to those who submitted a claim against the city in April 2024. This is not transparent or ethical governance. It is also not justified by the facts. Further, it is rumored the city will offer an even larger settlement, some \$9M, for unclear reasons. In light of their fiduciary responsibility, at the very least, before doing so, the Council owes the citizens of Palm Springs an explanation based in fact.

The City Council committed to reach consensus on the "wrongs" allegedly committed by the city in 1966 **before** taking action on Section 14. Prior to making a settlement offer in April 2024 the city attorney had made it clear that the un-adopted 2021 HRC "Monument Report" did not provide credible evidence of wrong-doing by the city.

The Council wisely refused to adopt the HRC report because of its fallacious accusations (which were documented by Friends of Frank Bogert), however this report continues to be cited by some council members (and those seeking reparations) as the basis for the claims. In the summer of 2023, the City Attorney was definitive in stating (in a letter to attorney Areva Martin), "Your clients" believe that the (HRC) Monument Report should, standing alone, support the payment to your clients of upwards of two billion dollars of public money is simply not supported by any reasonable concepts of public governance ..."

There is no evidence of City wrong-doing. Despite the un-adopted HRC "Monument Report" having been discredited, Mayor Bernstein announced a settlement offer in April 2024. In announcing the settlement offer Mayor Bernstein, speaking for the city council,

(see the city's press release) stated that the City's "wrong" was that "City funds" were used to demolish structures.

By any reasonable definition the funds used were not "City" funds. The federal government reimbursed the city for the demolition costs pursuant to a contract with the Bureau of Indian Affairs. The Tribal Council had asked the city to assist with the clearing of the land and the Indian owners issued the eviction notices. Without this contract, the costs for removing the structures after the eviction notices would be the responsibility of the landowners -- but at that time most of the Indian landowners could not afford these costs. For them to benefit from the value of their land, the land needed to be cleared.

The source of the funds to clear the land, from Indian owners, the federal government or the city, is irrelevant. The BIA had been very clear in 1961 when the director of the Palm Springs Office stated, "that the individual Indian allottees, court appointed guardians and conservators, in concert with the Bureau, had determined that all residential buildings must be removed... to permit redevelopment for its highest and best use."

That spring the BIA issued eviction notices to all remaining 430 homes with a date for completing the removal scheduled for June 30, 1961. Because of the efforts of Mayor Bogert these eviction notices were delayed another 5 years at which time the agreement between the federal government and the city to reimburse the city for the costs for demolition was executed. By any stretch of imagination, this cannot be considered a City "wrong" since the City was assisting the Tribe in one of the first efforts to support Tribal sovereignty.

Unfortunately to date, there has been no public discussion, no consultant report, no previous mention about the source of funds used. The City Council is not acting in good faith or dealing honestly with the public.

Friends of Frank Bogert submitted the attached letter to City Manager Scott Stiles on June 23, 2024. This letter further describes our concerns and specifically requests that the City Council make factual amends for this fiasco.

The Friends of Frank Bogert request the following: the HRC Frank Bogert Monument Report must be withdrawn from all city records and replaced by historical facts; apologize to the Bogert family for false and seemingly malicious accusations; disclose who prepared the HRC report; acknowledge the hard work Mayor Bogert and the city did to assist Section 14 residents; acknowledge that Mayor Bogert secured a moratorium on 430 evictions in 1961; revise and correct false statements in the 2021 "Apology resolution"; cease citing the discredited Assistant Attorney General Memorandum of 1968; correct false statement in the City Section 14 Fact Sheets and other online sources of information; commit to respond to, and correct false statements

made by the media, and finally relocate the Frank Bogert Statue to the Village Green restoring his reputation.

Norm King and Doug Evans on behalf of Friends of Frank Bogert

CC- City Manager and City Attorney

Attachment:

Desert Sun Editorial May ,7 2023 "Palm Springs City Council Takes Small Step in Right Direction in Reparations Study"

Letter to Scott Stiles from Norm King, June 23, 2024