

RICHMOND, CALIFORNIA, July 15, 2008

The Regular Meeting of the City Council was called to order at 5:47 p.m. by Mayor Gayle McLaughlin who led the Pledge of Allegiance to the Flag. The meeting was held at Kennedy High School in the Multi-purpose Room, 4300 Cutting Boulevard.

ROLL CALL

Present: Councilmembers Bates, Butt, Lopez, Sandhu, Thurmond, Viramontes, Vice Mayor Marquez, and Mayor McLaughlin. **Absent:** Councilmember Rogers (Councilmember Rogers arrived at 6:06 p.m.).

STATEMENT OF CONFLICT OF INTEREST

None.

AGENDA REVIEW

None.

PRESENTATIONS, PROCLAMATIONS, AND COMMENDATIONS

None.

CONSENT CALENDAR

On motion of Councilmember Viramontes, seconded by Councilmember Sandhu all items marked with an asterisk (*-) were approved by the unanimous vote of the Council.

*- Approved a request for maternity leave for Councilmember Lopez effective September 1, 2008, through November 15, 2008.

Received a report on the Richmond Half Steppers track team. City Manager, Bill Lindsay stated, in a brief report, that staff is currently soliciting pledges from the community and the City of Richmond will advance the funds with the idea that additional funds to the Half Steppers will be received.

PUBLIC COMMENT

The City Clerk, Diane Holmes, announced that the purpose of the Open Session was for the City Council to hear public comments on the following item to be discussed in Closed Session:

CITY COUNCIL

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Significant exposure to litigation pursuant to Subdivision (b) of Government Code Section 54956.9:

One Case

Speakers were: Dr. Jeff Ritterman, Torm Nompraseurt, and Jerome Smith.

The Regular Meeting of the City Council adjourned to Closed Session at 5:58 p.m. The Closed Session adjourned at 6:54 p.m. and the Regular Meeting of the City Council reconvened at 7:00 p.m.

ROLL CALL

Present: Councilmembers Bates, Butt, Lopez, Rogers, Sandhu, Thurmond, Viramontes, Vice Mayor Marquez, and Mayor McLaughlin. **Absent:** None.

Mayor McLaughlin announced that hostility and harassment was not acceptable and that there needs to be respect for all members of the public. She also stated that disrespect will not be allowed. She also announced that speakers' cards would be accepted until 8:00 p.m.

REPORT FROM THE CITY ATTORNEY OF FINAL DECISIONS MADE AND NON-CONFIDENTIAL DISCUSSIONS HELD DURING CLOSED SESSION

City Attorney, Scott Dickey, stated that the City Council voted to waive the attorney/client privilege on a memorandum from Ellen Garber and Elena Saxonhouse dated July 15, 2008, regarding the Chevron Hydrogen and Energy Renewal Project. The memo will be on the City of Richmond's website (www.ci.richmond.ca.us) on July 16, 2008. There were no other reportable actions.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Significant exposure to litigation pursuant to Subdivision (b) of Government Code Section 54956.9:

One Case

PUBLIC HEARINGS

The city clerk announced this was the time set, pursuant to published notice, to conduct a public hearing on the appeals filed by: (1) Communities for a Better Environment (CBE) and (2) Chevron of the Richmond Planning Commission's certification of the Environmental Impact Report and approval of combined Conditional Use Permit 1101974 and Design Review Permit 1104423 relating to the Chevron Energy and Hydrogen Renewal Project, and to determine whether to uphold, modify or reverse the Planning Commission's decisions in light of the two appeals. Lamont Thompson, Planning Department, presented the staff report. He introduced Consulting Attorneys Ellen Garber and Elena Saxonhouse, and the City's Consultant, Dr. Ron Sahu. Also available for questions were the EIR preparers Tim Morgan and Chuck Bennett, Environmental Science Association, as well as Brian Bachman, Greg Soloman, and Barry Young of the Bay Area Quality District. City Manager Bill Lindsay gave concluding remarks and stated that there are two threshold questions: (1) if the project is environmentally responsible and (2) if the project provides community benefits beyond just taking up land use. He also

stated that on July 15, 2008, he received a proposed Richmond Community Benefits Agreement from Chevron with a total value of \$61.6 million. A motion was made by Councilmember Marquez, seconded by Councilmember Bates, to direct the city manager to summarize the agreement from Chevron for the benefit of the audience. A friendly amendment was offered by Councilmember Rogers to direct the city manager to read the summary on page two which listed the categories and the amounts. The amendment was accepted. The motion passed by the following vote: **Ayes:** Councilmembers Bates, Butt, Lopez, Rogers, Sandhu, Thurmond, Viramontes, and Vice Mayor Marquez. **Noes:** Mayor McLaughlin. **Abstentions:** None. **Absent:** None. The city manager summarized the agreement which included the following information: (1) **Richmond jobs and education initiative total expenditure plans for \$6,750,000**, (a) Richmond Build Pre apprenticeship Construction Skills Training Program, \$2,500,000 over six years, (b) Industrial Arts Training Academy, \$2,100,000 over six years, (c) Richmond Employment Agency Job Readiness, \$1,200,000, over six years, (d) City Council Year-round Youth Employment Program Grant, \$200,000, over two years, and (e) GED class \$750,000 over six years; (2) **The Safe Richmond initiative total expenditure plans for \$11,250,000**, (a) increase number of police officers, \$6,000,000 over six years, (b) violence prevention strategy, \$5,050,000 shall be distributed as leveraged funding and match funding, and (c) Richmond Fire staffing and training costs, \$200,000; (3) **The Community Health Plan total expenditure for \$6,000,000, over six years;** (4) **the Richmond Community Fund total expenditure for \$10,000,000**, (a) In 2009 through 2018 Chevron plans to fund non-profits and community programs \$1,000,000 per year; (5) **Bay Trail Support Plan Expenditure Plan for \$5,000,000**, (a) Bay Trail easement alignment, \$3,000,000, (b) security enhancements of the Bay Trail, \$2,000,000; (6) **Alternative Energy Funding \$14,600,000**, (a) Chevron agrees to install 12 megawatts of renewable capacity on the Refinery's site for use at the Refinery, or for sale to Pacific Gas and Electric or for sale to the City for resale to its residents through a Community Choice Aggregation Program; (7) **Environmental Benefits**, (a) retrofit certain tanks with domes to reduce non-significant Richmond Renewal Project VOC emissions to zero net increase, \$5,000,000, (b) Chevron shall initiate discussions with the City to implement ground-level air quality data monitoring and collection, \$1,000,000, and (c) the first Chevron offset of the Renewal Project's potential 898,000 tons per year of greenhouse gas emissions shall be a \$2,000,000 contribution to reduce mobile emission sources of the City; (8) **Other Community Benefits**, (a) Chevron agrees to invest Renewal Project dollars in the local economy by making purchases from Richmond-based businesses, (b) Chevron agrees to direct use tax on out of state taxable purchased construction related items to Richmond, and (c) Chevron agrees to file a report with the City by October 1 of each year describing the amount of goods and services purchased from local and women/minority-owned businesses and jobs provided for Richmond residents through the Renewal Project. The city manager stated that that was the end of the Expenditure Plan and obligations proposed on the part of City were: (a) implementing measures to improve the planning and

building services process, (b) doing a specific area plan for the industrial area, (c) looking at measures to streamline design review and land use permitting, and (d) an obligation by the City to support future Chevron alternative energy projects. Copies of the Richmond Community Benefits Agreements were provided for the audience. The City Council began a question and answer session with staff and consultants. Dr. Ron Sahu, City Consultant, Tim Morgan and Chuck Bennett, Environmental Science Association, and Brian Bachman, Bay Area Quality District, spoke on this item. Mayor McLaughlin declared the public hearing open. The city clerk announced that the time was 8:01 p.m. and that there was a total of 137 speakers registered and that no additional speakers' cards would be accepted. Mike Coyle, General Manager, Bob Chamberlin, Environmental Specialist, and Tery Lizarraga, Manager of Health, Environment and Safety, spoke as appellants representing the Chevron Energy and Hydrogen Renewal Project. Their presentation included a PowerPoint Presentation covering the following topics: Project overview, objectives and benefits, information that the Refinery would process light to medium crudes, Chevron's response to CBE's heavy crude claim, Chevron's response to CBE's metals claim, Refinery's appeal on GHG EIR Mitigation Measure, Refinery's objections to CUP conditions, community benefits, environmental benefits, project captures additional sulfur from crudes, flaring reductions, and emissions management. Torm Nompraseurt; Dr. Henry Clark; Greg Karras, Senior Scientist; Adrienne Bloch, Senior Attorney; and Reverend Kenneth Davis spoke as appellants for Communities for a Better Environment. Their presentation included a PowerPoint Presentation covering the following topics: Chevron's oil switch could greatly increase, oil quality limits are needed to prevent pollution from streams that bypass the SDA, staff's claim that oil switch impacts are only speculative, graphs showing an example of flaring increases, and a summary of the proposed cap. Upon conclusion of the presentations of the two appellants, speakers from the public were called in groups of five, whenever possible, for the following three categories: CBE, Chevron, and Other. The first group of speakers in support of CBE was: Corky Booze, Jackie Thompson, Andre Soto, Dr. Jeff Ritterman, and Tarnel Abbott. The first group of speakers in support of Chevron was: Antwon Clorid, Willie Hicks, Jason, Gallia, and Ken Burns. The first group of speakers under the category of Other was: Simms Thompson, Jr., Zelda Holland, Michael Beer, Alfred Rolling, and Leonard Talley. Speakers in support of CBE were: Bradley Angel, Jessica DiCamillo, Jerome Smith, Claudine Tong, and Jovanka Beckles. Thomas Thurmond spoke in support of Chevron. Speakers under the category of Other were: Bruce Beyart, Laura, Livon, Deirdre Elmansoumi, Vincent Stomps, and Sarah Dotlich. The City Council recessed at 10:08 p.m. and reconvened at 10:21 p.m. with Councilmembers Lopez, Rogers, Thurmond, and Viramontes **absent** (Councilmembers Rogers and Thurmond arrived at 10:25 p.m., Councilmembers Lopez and Viramontes arrived at 10:27 p.m.). The next group of speakers in support of CBE was: Juan Reardon, Susan Meeter, Barbara Cook, and Linda Salinas. The next group of speakers in support of Chevron was: Richard Lompa and Fidel Martinez. Speakers under the category of Other were:

Marie Roberts De La Parra and Ormond Otvos. Lorrie Chinn spoke in support of CBE. Speakers under the category of Other were: Kathy Robinson, Mister Phillips, Tony Sustak, Brigid Simms-Acuna, Sherry Fuzesy, and Vincent Stamps. Diana Hume spoke in support of CBE. Speakers in support of Chevron were: Walter Grundon and Herman Blakmon. The remaining speakers were in support of CBE: Janie Anker, Marlene Quint, Eli Moore, Joseph Smith, Charles Smith, Ruth Gilmore, Barbara Stauss, Paul Kilkenny, Michael Leedy, Vernell Crittendon, and Adrian Wilson. The following residents signed up to speak in support of Chevron but were not in the audience when called: Rafael Madrigal, Corey Simmons, Michael Adams, Tom Quinn, Greg Levy, Petra Kemicks, Wilburn Poisons, Judd Asbates, Nowell Child, Owne Marquez, Morris Worse, Maria Zucker, Moe Krapp, Ken Burns, Rich Robbers, Jack Assintown, Moreen DeAir, Paul Lutters, Suami Bene, Jason Gallia, and William Hill. The following residents signed up to speak in support of CBE but were not in the audience when called: Millie Cleveland, Mark Chandler, Nick Magel, Marquita Griffon, Renee Saucedo, Lee Jones, Susan Swift, Rory Hansen, Iris Ridgway, Nancy Lemon, Adelle Lemon, Khamphay Phahongchanh, Thongsoun Puthama, Kam Setoue, Khamphouy Pilavanh, Kham Vivideth, Lue Sengsourit, Rose Marie Castro, Nina Smith, Mary Sactern, Vivien Feyer, Chanthong Vicaysack, Khan Vienguilaz, Jamila Richardson, Beverly Dare, Jessica Montiel, Farm Yien Saeyang, Abel Pineda, Cheryl Parkins, Ying Saechao, Nai Kwang Saechao, Cheng Chiam Saephan, Khamsao Vonvilayphan, Vong Douangchai, Lipo Chanthanasack, Tia Phonvongsa, Loon Khansouvong, Heung Keomante, Boon Douangchai, Laeng Vilaysouk, Reverend Franklin Sterling, Nai Saeturn, Keo Viengvilay, Rang Nambanda, Boonthong Karnsouvong, Chris Karnsouvong, Sylvia Hopkins, Leowchan Saechao, Boua Vanvilay, Arnell Kilian, Margaret Bowman, Scott Denman, Al Gore, Kay Wallis, Antonio Medrano, Reverend Kenneth Davis, Mary Peace, John Claussen, Rita Mitchell, and Cordell Britt. The following residents signed up to speak under the category of Other but were not in the audience when called: Dennis Fagaly, Rio Saeterum, and Bill Pinkham. On motion of Councilmember Viramontes, seconded by Councilmember Lopez, closed the public comment portion of the hearing by the unanimous vote of the Council. Mayor McLaughlin recessed the City Council Meeting at 12:01 a.m., July 16, 2008, in memory of Vernon Bolds, a Richmond resident, who recently passed, to reconvene on July 16, 2008, at 7:00 p.m. On July 16, 2008, the Richmond City Council was reconvened by Mayor McLaughlin at 7:05 p.m. with Councilmembers Rogers and Viramontes **absent** (Councilmembers Rogers and Viramontes arrived at 7:06 p.m.). City Attorney Louise Renne was present Chief Deputy City Attorney Scott Dickey was absent. The city clerk announced that the City Council voted unanimously on July 16, 2008, to close the public comment segment of the hearing and that the hearing would continue with rebuttals from each appellant. Tery Lizarraga presented the rebuttal for Chevron which included a PowerPoint presentation. Areas addressed in the presentation included: (1) Concern about emissions: (a) overall emissions reduced if project is approved, (2) Concern about flaring: (a) reduction in flaring SO₂ emissions (3) Concern about heavy crude, (4) Concern about metals: (a)

Chevron will track six metals of concern , (b) Chevron will remove metals with catalyst and tank clearing, and (c) reduced flaring; (5) Concern about sulfur: (a) project reduces sulfur emissions, (b) flare reductions reduce sulfur releases, (c) additional equipment will be added to remove sulfur, and (d) no increase in amount of sulfur releases in the atmosphere; (6) Concern About Greenhouse Gases: (a) first of its kind agreement in industry, (b) Chevron and City agree to zero increase of Greenhouse Gas emissions, (c) mitigation measure has local preference by prioritizing, and (d) refinery and City agree to modify local priority to include communities surrounding refinery; (7) Concern about regulation of refinery: (a) Refinery is one of the most heavily regulated in the world, (b) regulated by Federal Government, State of California, Bay Area Quality Management District, Water Board, Contra Costa County, and City of Richmond; (8) Concern about the community: (a) Chevron committed to working cooperatively with the City of Richmond to fund community benefits, i.e. violence prevention program, additional police officers and firefighters, health programs, new jobs, improvement to the Bay Trail, job and workforce training for unemployed residents, youth employment opportunities, and GED, test preparation and tutorial programs. Jessica, Torm Nompraseurt, Greg Karras, and Dr. Henry Clark presented the rebuttal for CBE. CBE requested that the City Council: (1) Re-circulate the EIR, (2) Request a comprehensive crude cap, and (3) do not trade the community's health for the conditional use permit. Following rebuttals and discussion, a motion was made by Councilmember Viramontes, seconded by Councilmember Thurmond to close the public hearing. The motion passed by the unanimous vote of the Council. The Councilmembers began questioning Chevron representatives, consultants, staff, and CBE. Dr. Sahu presented a PowerPoint Presentation to clarify some of his findings and some key terminology. Councilmember Rogers requested that Dr. Walker, County Health Department, be allowed to answer questions from the City Council that would provide information that would enhance the Council's basis for a decision. On motion of Councilmember Thurmond, seconded by Councilmember Viramontes, allowed Councilmembers to question Dr. Walker by the following vote: **Ayes:** Councilmember Butt, Lopez, Rogers, Sandhu, Thurmond, Viramontes, Vice Mayor Marquez, and Mayor McLaughlin. **Noes:** None. **Abstentions:** Councilmember Bates. **Absent:** None. Dr. Walker was not present and the City Council amended their motion to allow Dr. Wendell Brunner, County Health Department, to speak in his place. Dr. Brunner stated that the Health Department is most concerned that the emissions decrease over the life of the project rather than increase. He stated that there should be public monitoring of the emissions from the refinery and the information should be available to City staff and the community to see if Chevron is operating in a cleaner and safer manner. City Attorney Louise Rene addressed questions regarding the Community Benefits Agreement and suggested adding the following amendments to the language to the Effect of Litigation Section: (1) if Chevron were to bring the law suit, the community benefits would still go forward, and (2) suggest an amendment that would make it clear that if there was a preliminary stay or injunction, instead of just saying the funding obligations under the

agreement would be deferred, we would suggest that all obligations including the City's obligations would be deferred, (3) add language to the section on effective litigation, which would be the amendments would also say with a proviso that if a court's final ruling only particularly sets aside the approval for Chevron and any other party to a court challenge reaches a stipulated judgment or settlement of that challenge, and as a result of such stipulated judgment or settlement Chevron is entitled to proceed with all or partial approvals then the funding obligations of this agreement would continue and be payable, and (4) if any state or regional agency delays the issuance of permits, that the obligations under the agreement would still go forward. Greg Karras gave comments on Dr. Bruner's comments regarding the public monitoring of emissions. Discussion continued with questioning of Chevron representatives, staff, consultants, and CBE representatives. The City Council recessed at 10:50 p.m. and reconvened at 10:55 p.m. The City Council continued with questioning of Chevron representatives, staff, consultants, and CBE representatives. The city clerk announced that a motion was needed to extend the meeting past midnight. On motion of Vice Mayor Marquez, seconded by Councilmember Sandhu, extended the meeting for 30 minutes to 12:30 a.m. with Councilmember Butt voting **Noe**. Discussion continued with questioning of Chevron representatives, staff, consultants, and CBE representatives. Following discussion, a motion was made by Councilmember Rogers, in three parts to: (1) adopt staff's recommendations and add requirement that the City of Richmond develop a system for measuring emissions and come back in some time period, i.e. five years or however many years, and have an objective system so Chevron knows what it is that they need to do and if they can show that there are objective decreases in the emissions, from this project, then at that point they would never have to talk with the City of Richmond again. If these objective criteria show that there are increases in the emissions as defined then Chevron would come back to the City Council and there would be a discussion at that point as a continuation of the conditional use process; (2) the city attorney mentioned there were several technical clean-up provisions that need to be done in the community benefits agreement, and his motion would incorporate those provisions, and (3) there has been some technical work done in the area of the global warming carbon reduction issue, Councilmember Viramontes has done extensive work and tried to put together a number of proposals in that and some other areas to try to reflect some of the concerns of the public and of the Council and the motion would incorporate all of the provisions that Councilmember Viramontes has prepared in writing. He also stated that he is open to considering any other measures which the Councilmembers feel might assist that. The motion failed for lack of a second. Following discussion, on motion of Councilmember Viramontes, seconded by Councilmember Rogers, extended the meeting for 30 minutes, to 1:00 a.m., with Councilmember Butt voting **Noe**. A motion was made by Councilmember Viramontes, seconded by Councilmember Lopez that the City Council certify the final EIR for the Chevron Renewal Project with modifications of Mitigation Measures 435(e) as previously described and adopted by the findings under the CEQA documents, and in a form,

requested a verbal report from our city manger addressing the modifications which were in attachment two. A substitute motion was made by Mayor McLaughlin, seconded by Councilmember Butt to reverse the Planning Commission's certification of the EIR and to re-circulate the EIR addressing the full range of potential impacts from any potential change in the quality of crude oil or gas oil that is processed at the refineries, specifically addressing missing information identified in CBE's amended appeal of June 30, 2008. The motion failed by the following vote: **Ayes:** Councilmember Butt, Rogers, and Mayor McLaughlin. **Noes:** Councilmember Thurmond. **Abstentions:** Councilmembers Bates, Sandhu, Lopez, Viramontes, and Vice Mayor Marquez. Discussion continued on the original motion by Councilmember Viramontes, seconded by Councilmember Lopez. The city manager read the following language to be included in the motion stating it was with respect to 435 (e), and the change is intended to have the greenhouse gas reduction measures be taken to the greatest extent possible within the Richmond community: "No later than one year after the approval by the City Council, which is a change, a plan for achieving complete reduction up to the maximum estimated proposed project greenhouse gas emissions increase over the baseline, 898,000 metric tons per year as set forth in Table 1.3-11 revised in the final EIR. The plan shall identify local greenhouse gas reductions before considering other reductions. Local reductions shall consist of feasible actions to achieve required greenhouse gas reductions. At least 50 percent of the reductions, 449,000 metric tons per year, shall be taken in the following order of priority. First priority is on the Richmond property, including the long wharf. If not taken on Richmond property, the greenhouse gas emission reductions shall be taken in the following order of priority: low-income communities near the refinery; second priority within the City of Richmond; and third priority, West Contra Costa County. The remaining reductions may be taken within the State of California consistent with our requirement for greenhouse gas reductions. In the event that the City Council does not approve all or a portion of the plan, the Planning Director shall within 60 days propose an alternative greenhouse gas reduction plan, or a portion thereof, that will achieve a substantially similar reduction as measured in number of tons and at an equal or lesser cost per metric ton of greenhouse gas reduced within the local priority areas." The city manager summarized that the intent of the language is to have a 50 percent threshold for greenhouse gas reductions in the local area, and within those priorities that start out on the Richmond property, including the Long Warf, then the low-income communities, impacted communities, next within the City of Richmond as a whole, next within West County, and the remaining beyond that 50 percent can go into a broader sphere, if you will. It does provide that the City Council will actually approve a plan, and you have the ability to if you think that it's not being achieved in a local area and it can be achieved in a lower sphere, you have the ability then to, within 60 days, amend that plan and direct that another approach be taken. Councilmember Butt offered a friendly amendment to consider adding all the reduction measures that can feasibly be taken in the City of Richmond, including the Richmond refinery, with priority being low income areas nearest the

refineries, shall be exhausted before taken elsewhere, and in no case shall the measures taken in Richmond be less than 50 percent of the total. I think that what this does is make sure that maybe more than 50 percent will be taken in Richmond, and that the test for going elsewhere is a fairly rigorous test. It goes on to define "feasible." Feasible generally means as defined in Section 21061.1 of the CEQA guidelines, capable of being accomplished in a successful manner, within a reasonable period of time, taking into account economic, environmental, social, and technological factors. For this specific action, however, a higher return on investment for completing or implementing a greenhouse gas reduction measure elsewhere in the City of Richmond is not a justification for deeming a measure infeasible. In this context specifically the term "feasible" refers to the constructability of a project and the practical prospect for successful implementation of a measure, for example, whether or not a project can be built using current construction methods, technology, and practices. A measure may be considered not feasible for one of the following reasons: it doesn't meet the mitigation objective, severe operational or safety problems, unacceptable impact, social economic or environmental, serious community disruption or combination of any of the above. And then it goes on to list measures, may include but are not limited to, and it lists the ones that are already in our staff report and plus every action that appears in the scoping plan, draft scoping plans for climate change from the Air Resources Board and the technical advisory on sequent climate change, State Office of Planning Research. Councilmember Viramontes accepted Councilmember Butt's amendment to define or provide the description of feasibility as a part of the vendor in the monitoring document. Councilmember Thurmond suggested changing the language so that it doesn't say anything like, "less than", he suggested changing the language to say "at least 50 percent". Councilmember Rogers asked if it made sense to define the words "West County". Councilmember Viramontes stated she had in mind North Richmond, Pinole, Hercules, and Parchester. The city manager suggested defining West County as the area that is co-termus with the area that is represented by WCCTAC, which then includes the various cities plus the unincorporated areas. Further discussion ensued. A motion was made by Councilmember Viramontes, seconded by Councilmember Lopez, extended the meeting for 15 minutes. The city clerk announced that Open Forum was on the agenda and there were four speakers. Councilmember Viramontes amended her motion to 30 minutes, to 1:40 a.m., seconded by Councilmember Rogers. The motion passed with Councilmember Butt voting **Noe**. Discussion continued, and Councilmember Viramontes withdrew her acceptance of Councilmember Butt's amendments to the EIR, she stated she will include the amendment in the Conditional Use Permit. Councilmember Viramontes called for the question. The original motion regarding the EIR passed by the following vote: **Ayes:** Councilmember Bates, Lopez, Sandhu, Thurmond, Viramontes, and Vice Mayor Marquez. **Noes:** Councilmembers Butt, Rogers, and Mayor McLaughlin. **Abstentions:** None. **Absent:** None. A motion was made by Mayor McLaughlin, seconded by Councilmember Thurmond, to adopt the proposed feedstock quality conditions outlined in Attachment 5A to CBE's letter of

May 29, 2008, to Lamont Thompson placing limits on the quality of crude oil after blending, the quality of gas oil after blending, the volume throughput of the Solvent Deasphalter (SDA), and the volume throughput of all the cracking units with quality limits equal to or greater than the annual average since Chevron's last retooling. A substitute motion was made by Councilmember Viramontes, seconded by Councilmember Lopez, that the City Council approve the CUP permit for the Chevron Renewal Project, that the City Council adopt the findings in support and approval of the form of the draft resolution provided by the Planning Department as Attachment 3 to the Agenda Report with the following modifications: (C12) the SDA shall not be operated above a maximum throughput rate of 56,000 barrels per day (annual 12 month rolling average and calendar monthly average). Within 30 days after approval of this Conditional Use Permit, Chevron shall file a complete application to the BAAQMD to cause the Refinery's Title V Permit to be amended to reduce the maximum permitted throughput limits for the SDA lowered to 56,000 barrels per day and shall report to the Planning and Building Services Department when the amendment application has been submitted and when the amendment has been completed. Chevron shall provide quarterly reports to the Planning and Building Services Department, no later than 30 days after the completion of each calendar quarter demonstrating compliance with this condition for each month and each rolling 12-month period in the preceding quarter. Councilmember Viramontes asked Chevron if they would publicly agree if they would be willing to in 30 days of approval of the Conditional Use Permit to file a complete application to the Bay Area Air Quality Management District to cause their federal Title 5 and State Permit to be amended to the same amount as our Conditional Use Permit. Chevron representative, Tery Lizarrage, agreed. The next condition (C13) these conditions of approval do not authorize Chevron to bring crude oil or gas oil to the Refinery by pipeline. Any proposal to bring crude oil or gas oil to the Refinery by pipeline shall require a new or amended application, or a conditional use permit and environmental review. Chevron shall not introduce any inputs into the number four crude unit vacuum column that are not produced in the number four crude unit atmospheric column. Chevron shall not introduce any inputs into the SDA unit that are not produced in the number four crude unit vacuum column. (D5, D6, and D7) Flaring Reporting consolidated into one measure: a flare data report, like the flare data report required by the BAAQMD Regulation 12, Rule 11, Section 401 to be submitted to the BAAQMD within 30 days after the end of each month, shall also be submitted to the BAAQMD, for the first 15 days of each month, by the fifteenth day of the following month. A copy of both reports shall be submitted to the Planning and Building Services Department when they are submitted to the BAAQMD. The last conditions have to do with the legal opinion that the City Council was provided on July 15, 2008, and was made public by a vote in Executive Session by the Council to release the document in the back of the room so that it was not a secret document, it was an open document. These are the issues of conditions that the Planning Commission, many of them had put in, that dealt with social services and environmental benefits that did not seem

appropriate to leave in the Conditional Use Permit but do seem appropriate to move over to the Community Benefits Package. Remove C1, the tank issue, F10, amended J4, J5, J6, J7, J8, J9. H2, H3, K1, amended to the financial amounts that Chevron has contributed, which is significantly more than what the Planning Commission had authorized. Councilmember Butt offered the following friendly amendment: Notwithstanding any other technical conditions regarding the constituent content of crude oil and gas oil, and the details of the refining process as the overarching attempt of this permit is that no future emission of pollutants in the air or water, accidental or otherwise, shall exceed the existing annual emissions, and that such increased emissions shall be deemed a violation of this permit. Councilmember Viramontes stated she would not accept the amendment; she stated that by accepting this particular amendment would invalidate the EIR or try to put a condition that the EIR determines is not possible. Councilmember Butt offered a second friendly amendment to insert the same language he offered before regarding the definition of feasible. **On motion of Vice Mayor Marquez, seconded by Councilmember Rogers extended the meeting until 2:00 a.m. with Councilmembers Butt and Lopez voting Noe.** Councilmember Butt offered another friendly amendment to make sure Chevron actually constructs the Bay Trail. Councilmember Viramontes did not accept the amendment; she stated this issue was already addressed in H2 which was moved to the Community Benefits Package. The city manager stated that the staff had a recommendation on C3 and it has to do with fuel gas limits and what the City of Richmond wants to do. There is language about submitting to the Planning Department data on that, and staff wanted to actually put in some specific language on how that would be evaluated by the Planning Department. Also the trigger is actually mislabeled as within one year of the start of the hydrogen purity component. It should be the hydrogen plant component. The city manager stated the emission levels do not change. It's still 15 parts per million on an annual average basis and less than 40 parts per million of sulfur, H₂S, over four-hour average. So the substance of that in terms of emission limits do not change, but the trigger is different and there is evaluation criteria which is defined as its cost effectiveness greater than those used by the BAAQMD for S₀₂ reduction. Councilmember Rogers stated there should be a five-year review and he would vote noe because it is not included. The substitute motion regarding the CUP with staff's recommendations passed by the following vote: **Ayes:** Councilmembers Bates, Lopez, Sandhu, Viramontes, and Vice Mayor Marquez. **Noes:** Councilmembers Butt, Thurmond, Rogers, and Mayor McLaughlin. **Abstentions:** None. **Absent:** None. A motion was made by Councilmember Viramontes, seconded by Councilmember Lopez (regarding the Community Benefits Agreement) to approve the agreement with Chevron under which Chevron will provide certain benefits to the City of Richmond and its resident in the form of an agreement entitled the "Richmond Community Benefits Agreement" as presented to the Council on July 16, 2008, authorized by the City Manager to execute the agreement and authorization for the city attorney to make the legal closure that we need on those final amendments that she suggested earlier in a form for the City once Chevron has

first executed this agreement. **Councilmember Butt left the meeting at 1:59 a.m.** Councilmember Rogers offered a friendly amendment to make sure that the money happens, is that there is a limitation of \$4 million dollars per year listed in number A, funding structure, page 2 of 9. The amounts listed add up to \$6 million, and so the first change is to instruct the city attorney to change that language so that the promised \$6 million is not changed to \$4 million.

Councilmember Viramontes stated that was not an issue, because some of those commitments are done directly through Chevron as the fiscal agent, and some are done through the City as the fiscal agent, so it's not that you're short the \$2 million, it's who's the fiscal agent for that money. The second amendment is to clarify that if one of these different approvals is not granted, it only knocks out that money and doesn't knock out the rest of the money should there be a non-approval, because the way it's written it can be interpreted that all money goes away if we should fail to do one of the approvals. Councilmember Viramontes stated yes, she has directed the city attorney to look at the legal issues as a part of this contract. The contract will be finalized by the city attorney. A friendly amendment was offered by Councilmember Bates to include that mitigation funds not expended during the contract will be placed in the general fund. Councilmember Viramontes accepted the amendment. Another friendly amendment was offered by Councilmember Bates that the community benefits subject to review and possible amendment at the discretion of the majority of the Council within the next 60 days, or next three months, regarding areas relating to the medical and the City of Richmond can maybe work with community hospital to provide a greater degree of benefits for the City. On motion of Councilmember Viramontes, seconded by

Councilmember Rogers extended the meeting for 10 minutes by the unanimous vote of the Council. Councilmember Viramontes accepted a portion of Councilmember Bates friendly amendments; she stated she would like to provide the Council with flexibility on issues with Brookside Clinic. Mayor McLaughlin stated she will vote against the motion. She stated the biggest community benefit is protection of the public health, which the previous two motions have totally denied. The motion with the accepted amendments passed by the following vote: **Ayes:** Councilmembers Bates, Lopez, Rogers, Sandhu, Viramontes, and Vice Mayor Marquez. **Noes:** Mayor McLaughlin. **Abstentions:** Councilmember Thurmond. **Absent:** Councilmember Butt.

OPEN FORUM FOR PUBLIC COMMENT

Corky Booze stated he witnessed a gross disrespect for the public's trust and that professionalism did not take place tonight. He stated that Councilmember Viramontes owes an apology to the gentlemen from CBE in reference to telling him to sit down. He stated that as a person representing the City of Richmond, she was very unprofessional. He stated the community's trust is not being heard or taken under consideration. He stated the most racist person in the City of Richmond is Dean O'Hair from Chevron. He cares nothing about people of color; Chevron cares nothing about people of color. He stated that the citizens of Richmond can reach the tentacles that allow him to

get away with the blatant racism in the City of Richmond.

Jackie Thompson stated that she hopes the Councilmembers who voted to allow Chevron to move forward with their project can live with what they have done. She stated that she feels bad for the gentleman that was told to sit down. She told Councilmember Viramontes that that was not a way to talk to anyone. She stated that the way Councilmember Viramontes talks to people is bad and she should feel bad because the community looks to her and tries to respect her, but when she disrespects the public she disrespects everyone. She stated that we stand together in unity and she wishes that the City Council would sit together in unity and not fight with one another. She asked the Council to be thankful for the people that come before them to speak.

Jerome Smith stated that some of our senior members of the Council vote not by what they think, but by an engineered presence. He stated that when Councilmembers Sandhu, Bates, and Vice Mayor Marquez, throw up a green flag at every option that goes in favor of the corporation that runs this town and that very good team of issue managers, Mr. Powers, Mr. Zell, and Mr. Bachelor, and the very eloquent and knowledgeable Councilwomen Viramontes, it is no wonder that justice does not prevail.

AGREEMENTS

None.

RESOLUTIONS

None.

ORDINANCES

None.

COUNCIL AS A WHOLE

None.

REPORTS OF OFFICERS: STANDING COMMITTEE REPORTS, REFERRALS TO STAFF, AND GENERAL REPORTS (INCLUDING AB 1234 REPORTS)

None.

ADJOURNMENT

There being no further business, the meeting adjourned at 12:13 a.m. to meet again on Tuesday, July 22, 2008, at 7:00 p.m.

City Clerk

(SEAL)

Approved:

Mayor