

RICHMOND, CALIFORNIA, October 21, 2008

The Regular Meeting of the Richmond City Council was called to order at 5:09 p.m. by Mayor Gayle McLaughlin.

ROLL CALL

Present: Councilmembers Butt, Sandhu, Vice Mayor Marquez, and Mayor McLaughlin. **Absent:** Councilmembers Bates, Lopez, Rogers, and Thurmond (Councilmembers Bates and Rogers arrived after adjourning to Closed Session).

PUBLIC COMMENT

The city clerk announced that the purpose of the Open Session was for the City Council to hear public comments on the following items to be discussed in Closed Session:

CITY COUNCIL

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Subdivision [a] of Government Code Section 54956.9): Parchester Village vs. City of Richmond

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

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Initiation of litigation pursuant to Subdivision (c) of Section 54956.9): One Case

There were no public speakers.

The Open Session adjourned to Closed Session at 5:10 p.m. The Closed Session adjourned at 6:36 p.m. The Regular Meeting of the City Council was reconvened at 7:03 p.m. by Mayor Gayle McLaughlin.

ROLL CALL

Present: Councilmembers Butt, Bates, Rogers, Sandhu, Viramontes, Vice Mayor Marquez, and Mayor McLaughlin. **Absent:** Councilmembers Lopez and Thurmond (Councilmember Lopez arrived at 7:10 p.m. and Councilmember Thurmond arrived at 7:18 p.m.).

STATEMENT OF CONFLICT OF INTEREST

None.

AGENDA REVIEW

A motion was made by Councilmember Bates, seconded by Councilmember Viramontes to move Item L-4 directly after Report From the City Attorney of Final Decisions Made and Non-Confidential Discussions Held During Closed Session. The motion passed by the unanimous vote of the Council. Mayor McLaughlin modified the motion and moved Item L-4 directly after the vote on Consent Calendar. Mayor McLaughlin moved Item L-1 directly after Item L-4.

Items L-2 and L-3 will be heard together.

**PRESENTATIONS, PROCLAMATIONS, AND
COMMENDATIONS**

None.

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

City Attorney, Randy Riddle, reported that there was *no reportable action* the following:

CITY COUNCIL

**CONFERENCE WITH LEGAL COUNSEL -
EXISTING LITIGATION (Subdivision [a] of Government
Code Section 54956.9):** Parchester Village vs. City of Richmond

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

**CONFERENCE WITH LEGAL COUNSEL -
ANTICIPATED LITIGATION (Initiation of litigation
pursuant to Subdivision (c) of Section 54956.9):** One Case

CONSENT CALENDAR

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

*-Approved a contract with California Skateparks for the design and construction of a grant-funded skatepark facility in Nicholl Park in an amount not to exceed \$309,055.95.

*-Approved a contract with Astro Construction for replacement of the fence at the Burg Park Tennis Court, in an amount not to exceed \$45,100.00.

*-Approved the Adopt-a-Park/Trail Program and directed Public Works Department, Parks and Landscaping Division to implement the program.

*-Approved a contract with Mark Albertson, AIA Architect, to provide professional services to assess roof leak problems at the City's Main Library, and to identify solutions, prepare construction documents, and provide construction support to facilitate a proper repair of water leaks, in an amount not to exceed \$31,500.00.

*-Approved **Resolution No. 116-08** authorizing the City Manager to execute a modification to the Memorandum of Understanding between the City and IFPTE Local 21 and SEIU Local 1021 in accordance with the terms of the Tentative Agreement reached between the parties' representatives, and extending the same benefit enhancements to Exempt and Confidential Management.

*-Adopted **Resolution No. 117-08** formally adopting the voter approved Contra Costa County Measure L-Urban Limit Line (ULL), as the City of Richmond's ULL, for the purposes of compliance with Measure J, and DIRECT Staff to file a Notice of Determination within the time required by law.

*-Approved the renewal of the K-9 Maintenance Training contract between the City of Richmond and Master K-9 Inc. for the period July 1, 2008 to June 30, 2009, for a total contract price of \$10,749.

*-Acknowledged receipt of the City of Richmond Single Audit Report for the fiscal year ended June 30, 2007.

*-Adopted **Resolution No. 118-08** establishing a pool of performance audit firms to include Macias Consulting Group, Kevin W. Harper, CPA & Associates, Matrix Consulting Group, and MGT of America, Inc. for the internal audit program and APPROVE a contract with each member of the pool for an amount not to exceed \$150,000.

*-Approved a contract with BKF Engineers for design and construction management services associated with the Safe Route to School Improvement Project at a cost of \$47,757.

*-Approved (1) a contract with Mike Brown Electric Company for the installation of an emergency generator at a cost of \$227,959, and (2) acknowledged that a staff generator purchased during the August Council recess was a proper exercise of the Emergency Procurement Authority granted under Richmond Municipal Code Section 2.52.334 in order to have installation completed by the start of this year's rainy season.

*-Approved the following appointments: Workforce Investment Board: Ginny Kuhel, Rhonda Harris, and Barbara Vineyard.

*-Approved the minutes of the Special Meeting held on September 23, 2008, and the regular meeting held on October 7, 2008.

PUBLIC HEARINGS

The city clerk announced that this was the time set, pursuant to published notice, to conduct a public hearing on an appeal by Anthony Allen of the Planning Commission's September 4, 2008, approval of a Conditional Use Permit, subject to conditions, for the purpose of processing catalog and internet sales of gift baskets including wines, gift basket assembly, and a small retail alcoholic beverage store located at 1099 Essex Avenue. Planning Director Richard Mitchell gave an overview of the item. Mayor McLaughlin declared the public hearing open. Anthony Allen spoke as the appellant. Eric Cedar spoke as the applicant. Other speakers were: Naomi Williams, Mildred Carlton, Simms Thompson Sr., and Lisa Consani. On motion of Councilmember Bates, seconded by Vice Mayor Marquez closed the public hearing by the unanimous vote of the Council. A motion was made by Councilmember Butt, seconded by Councilmember Rogers to continue to October 28, 2008, and have conditions of approval in place. Councilmember

Viramontes recommended the following conditions be included in the Conditional Use Permit: (1) no bottle or can of wine, other liquors, or beer can be sold separately outside the structure of a basket; (2) submit to annual inspection by Police Department be done in relation to the CUP; and (3) any future applicant at this location under the CUP must return to the City Council for consideration of use under the CUP. A substitute motion was made by Councilmember Bates, seconded by Councilmember Rogers to deny the appeal and proceed with the staff's recommendation and conditions presented by Councilmember Viramontes. The motion passed by the following vote: **Ayes:** Councilmembers Bates, Rogers, Sandhu, Viramontes, and Vice Mayor Marquez. **Noes:** Councilmember Thurmond and Mayor McLaughlin. **Abstentions:** Councilmember Butt. **Absent:** Councilmember Lopez.

The City Council recessed at 11:04 p.m. and reconvened at 11:10 p.m.

OPEN FORUM FOR PUBLIC COMMENT

Corky Booze thanked the public for their support. He read a statement that he will continue to be the voice of the people that cannot speak for themselves. He also asked the City Council to rethink moving open forum first.

Juanita Taylor stated that there is racism and intimidation occurring in the City of Richmond's Parks Department. She stated a swastika was painted in the bathroom, a noose hung in his work truck, truck tires slashed, and a dead animal found in his locker. No action has been taken. She stated this should be treated as a hate crime and has not received any action from Human Resources Department or supervisors. SEIU Local 790 is demanding a closed session meeting with the City Council.

Simms Thompson stated that he would like the City of Richmond to look into a business on 23rd Street barbecuing on the City Streets.

Millie Cleveland spoke about the conditions of racism within the City of Richmond, particularly in the Parks Department. SEIU Local 790 is demanding the following: (1) that all management go through a training program; (2) a memo go out to all employees of the City of Richmond explaining the specific incident; (3) all employees be informed that it is a violation of the City's Violence in the Work Place Policy; (4) whoever is responsible for the incidents will be subjected to sever discipline-including termination; (5) anyone knowledgeable of the person committing the incidents and does not report it will be subjected to sever discipline; (6) request a police report filed under the name of a hate crime; and (7) anyone caught should be subjected to criminal liability. If demands are not met, the SEIU will sue the City of Richmond.

Gregory Everett spoke in support of the employee that found the noose in his truck and the dead cat in his locker. He stated that the department did not have a "tailgate" meeting to address this problem and to tell employees know that this behavior would not be tolerated. Mr. Everett asked for the City Council's support.

Kathy Robinson encouraged citizens to vote on November 4, 2008, to replace all Councilmembers that voted to support Chevron and to move Open Forum.

Michael Beer spoke in support of measure T.

Michael Parker spoke regarding Measure T and Chevron.

Tony Sustak encouraged people with limited mobility issues in the City of Richmond to contact the Pedestrian and Bicycle Advisory Committee (PBAC). For more information, visit the website richmondpbac.org.

Jovanka Beckles stated that it was 11:35 p.m. and it was a shame that the City Council was just getting to Open Forum. She stated that the community should get a City Council that appreciates hearing our voices.

Janie Anker stated she was disrespected by the City Council on a regular basis. She stated that there needs to be better signage to identify City Hall. She also stated that it was illegal to use someone's photograph without their permission.

Rock Brown stated that he agrees with denouncing any mailer that promotes racism and does not represent the City of Richmond well. He also stated that there should be a compromise for Open Forum.

Melonie Langlois stated she was impressed that the City Council unanimously denounced the mailer. She also stated that as leaders, the City Council should demonstrate respect to each other.

Councilmember Bates stated that independents committees have authority to use candidate's names or photos on any literature without the candidate's permission.

RESOLUTIONS

None.

ORDINANCES

A proposed urgency ordinance adding Chapter 2.63 to the Richmond Municipal Code authorizing the City to issue civil fines and penalties up to \$1,000 per day for failure to maintain foreclosed properties was presented. Police Chief Magnus gave an overview of the item. Following discussion, on motion of Councilmember Viramontes, seconded by Vice Mayor Marquez adopted **Urgency Ordinance No. 24-08 N.S.** by the following vote: **Ayes:** Councilmembers Bates, Butt, Rogers, Sandhu, Thurmond, Viramontes, Vice Mayor Marquez, and Mayor McLaughlin. **Noes:** None. **Abstentions:** None. **Absent:** Councilmember Lopez.

A proposal to introduce an ordinance amending subsection 9.22.090 (3)(B) of the Richmond Municipal Code that specifies public nuisances relating to maintenance of property was presented. Councilmember Rogers gave an overview of the item. Special Counsel Trish Aljoe spoke on this item. Following discussion, on motion of Councilmember

Rogers, seconded by Councilmember Viramontes said ordinance received first reading and was held over two weeks for second reading by the following vote: **Ayes:** Councilmembers Bates, Butt, Rogers, Sandhu, Thurmond, Viramontes, Vice Mayor Marquez, and Mayor McLaughlin. **Noes:** None. **Abstentions:** None. **Absent:** Councilmember Lopez.

A proposal to introduce an ordinance amending Richmond Municipal Code Chapter 6.38 to provide enhanced enforcement power over unmaintained vacant property was introduced. Councilmember Butt and Mayor McLaughlin gave an overview of the item. Following discussion, on motion of Councilmember Butt, seconded by Mayor McLaughlin said ordinance received first reading and was held over two weeks for second reading by the following vote: **Ayes:** Councilmembers Bates, Butt, Lopez, Rogers, Sandhu, Thurmond, Viramontes, Vice Mayor Marquez, and Mayor McLaughlin. **Noes:** None. **Abstentions:** None. **Absent:** None.

COUNCIL AS A WHOLE

In the matter to discuss and support a motion to denounce the offensive and inaccurate language of the recent mailer sent out by the Richmond Police Officers Association (RPOA), and support the right of Richmond Community United for Peace to pursue their demands. Mayor McLaughlin gave an overview of the item. City Clerk Diane Holmes read letters from the Guardians of Justice and the Democratic Party of Contra Costa County supporting the denouncement of the flyer. Councilmember Rogers gave an overview of Item L-2. Speakers were: Don Gosney, Andres Soto, Corky Booze, Jackie Thompson, Chris Tallerico, Mike Daley, Antonio Mendrano, Naomi Williams, Dr. Jeff Ritterman, Jim Jenkins, Janie Anker, Fred Jackson, Owen L. Martin Jr., Michael Beer, Iris Ridgway, Lucero Garcia, Yessenia Garcia, Margaret Browne, Tony Sustak, Millie Cleveland, Michael Parker, Juan Reardon, Owen Martin, Cora Ward, Rafael Madrigal, Torm Nompraseurt, Debbi Landsloff, Che Soto-Vigil, Jovanka Beckles, Cynthia Pardinias, and Grisselva Pardinias. Following discussion, a motion was made by Mayor McLaughlin, seconded by Councilmember Thurmond to denounce the mailer sent out by the Richmond Police Officers Association (RPOA). A substitute motion was made by Councilmember Bates to denounce the mailer sent out by RPOA with the addition of denouncing the e-mail sent out by Councilmember Butt regarding racist statements towards minority Councilmembers Bates, Sandhu, and Vice Mayor Marquez stating he would “send them back where they belong”. The city attorney ruled that the issue of the e-mail would have to be placed on the agenda and could not be considered at the current meeting. A friendly amendment was made by Councilmember Lopez that any form of race bating in any political form is not acceptable. A seconded friendly amendment was offered by Councilmember Rogers to label the flyer as offensive, inaccurate, and racist. The amendments were accepted. The motion passed by the unanimous vote of the council. A motion was made by Mayor McLaughlin to recognize the right for Richmond United for Peace to pursue their demands. The motion failed for lack of a second. A motion was made by Councilmember Rogers, seconded by Mayor McLaughlin to direct the city manager to issue an immediate administrative

order banning the use of city seals and other city identified material on campaign materials; direct city attorney to prepare an ordinance to make such use of city seals on campaign materials illegal. A friendly amendment was offered by Councilmember Viramontes to include “to the extent that it is necessary to deal with these as meet and concur issues that we would so deal with them”. Fire Chief Banks confirmed that Police Officers and Firefighters are prohibited from wearing their uniform for political actions. The city attorney suggested that the City Council prohibit any unauthorized use of the City seal and logo. The suggestion was accepted as a friendly amendment. The motion passes by the following vote: **Ayes:** Councilmembers Bates, Butt, Lopez, Rogers, Sandhu, Thurmond, Viramontes, and Mayor McLaughlin. **Noes:** None. **Abstentions:** Vice Mayor Marquez. **Absent:** None.

This item was heard with Item L-1. In the matter to direct staff to clarify that recent election campaign materials do not represent the views of the City of Richmond and provide direction to ensure the City of Richmond seals and other identified materials are not used in future campaign mailers. Speakers were: Corky Booze, Jackie Thompson, Cora Ward, Jorge Lerma, and Michael Beer.

In the matter to consider directing staff to implement the following internal control procedural changes: (1) authorize the City's current auditors, Maze and Associates, to expand their current scope of work to increase Cal Card (credit) transaction sampling; (2) approve the hiring of a forensic auditor to specifically audit the purchases of the Mayor's Office and other offices deemed necessary; (3) direct the Finance Department purchasing staff to randomly check and more thoroughly verify department Cal Card purchases, and report to the Finance Director for appropriate action on an-ongoing basis; (4) request that the Finance Committee review monthly budget variance reports starting November 7, 2008. Finance Director James Goins gave an overview of the item. Speakers were: Corky Booze, Jackie Thompson, and Janie Anker. **On motion of Councilmember Viramontes, seconded by Councilmember Thurmond, extended the meeting for 15 minutes with Councilmember Butt voting noe.** On motion of Councilmember Bates, seconded by Councilmember Thurmond approved the recommendations of staff by the following vote: **Ayes:** Councilmembers Bates, Lopez, Rogers, Sandhu, Thurmond, Viramontes, Vice Mayor Marquez, and Mayor McLaughlin. **Noes:** Councilmember Butt. **Abstentions:** None. **Absent:** None.

In the matter to hear and discuss a proposal to improve safety in Richmond schools and direct staff to collaborate with the West Contra Costa Unified School District and Contra Costa College for the development and implementation of the Safer Schools Program. Councilmember Bates gave an overview of the item. President of Contra Costa College McKinley Williams, West Contra Costa Unified School Board District Superintendent Dr. Bruce Harter, and Police Chief Chris Magnus spoke in support of this item. Public speakers were: Jackie Thompson, Corky Booze, and Margaret Browne. A motion was made by Councilmember Bates, seconded by Councilmember Thurmond to direct staff to collaborate with the West Contra Costa Unified School District and Contra Costa College for the development and implementation of the

Safer Schools Program and report back to the Council within 60 days with a progress report. The motion passed by the unanimous vote of the Council.

In the matter to direct staff to identify future construction projects where the City of Richmond will serve as its own general contractor and sub-contract primarily with Richmond-based-construction companies as a strategy to increase the number of local companies working on City-funded projects. Councilmember Thurmond gave an overview of the item. Corky Booze and Jackie Thompson spoke on this item. On motion of councilmember Thurmond, seconded by Councilmember Bates, approved the item by the unanimous vote of the Council.

In the matter to establish an employee volunteer program that would allow City of Richmond employees up to five hours per month of paid leave to volunteer in Richmond schools. Councilmembers Thurmond and Lopez gave an overview of the item. Corky Booze spoke on this item. Following discussion, a motion was made by Councilmember Thurmond, seconded by Councilmember Sandhu to approve the item. The motion failed by the following vote: **Ayes:** Councilmembers Lopez, Sandhu, Thurmond, and Vice Mayor Marquez. **Noes:** Councilmembers Bates, Viramontes, and Mayor McLaughlin. **Abstention:** Councilmembers Butt and Rogers. **Absent:** None.

In the matter to approve (1) the Emergency Grant Program guidelines and application and (2) provide direction to staff regarding the implementation of a grant review process. Administrative Chief Janet Schneider gave an overview of the item. Following discussion, a motion was made by Councilmember Bates to refer this item back to the Finance Committee to work out details. The motion failed for lack of a second. Councilmember Lopez suggested amending the process so that every request comes to the city council for approval. Discussion continued and a motion was made by Councilmember Viramontes, seconded by Councilmember Bates to appoint four members, two from the Finance Committee and two from the Programs Committee (Councilmembers Rogers, Lopez, Bates, and Sandhu) to meet with the city manager and city attorney to implement guidelines and criteria and bring back recommendations back to the Council. Councilmember Lopez offered a friendly amendment that the City Council will not approve any additional grants until the criteria is established. The amendment was accepted. The motion passed by the following vote: **Ayes:** Councilmembers Bates, Rogers, Sandhu, Thurmond, Viramontes, and Mayor McLaughlin. **Noes:** **Abstention:** None. **Absent:** Councilmembers Butt, Lopez, and Vice Mayor Marquez.

Councilmember Viramontes suggested the Council not meet on October 28, 2008. She suggested the Council meeting on November 10 and 18, 2008, and December 2, 9, and 16, 2008. Mayor McLaughlin stated the Council majority agreed to meet on October 28, 2008, and November 18, 2008.

**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 1:35 a.m. to meet again on Tuesday, October 28, 2008, at 7:00 p.m.

City Clerk

(SEAL)

Approved:

Mayor