

**RICHMOND, CALIFORNIA, January 10, 2006**

The Morning Open Session was called to order at 8:43 a.m. by Mayor Irma L. Anderson.

**ROLL CALL**

**Present:** Councilmembers Butt, Thurmond, Bates, Griffin, Rogers, McLaughlin, Viramontes, and Mayor Anderson. **Absent:** Councilmember Marquez.

**PUBLIC COMMENT**

The City Clerk announced that the purpose of the Morning Open Session was to hear comments from the public on the following items to be discussed in Closed Session: **CONFERENCE WITH LEGAL COUNSEL: ANTICIPATED LITIGATION Significant exposure to litigation pursuant to Subdivision (b) of Government Code Section 54956.9) Parkway Commerce/City of San Pablo; CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code Section 54956.8) Property: Point Molate, Negotiating Parties: City Manager Bill Lindsay, Jim Levine of Upstream Point Molate, and John Knox, Orrick Herrington and Sutcliffe, Under Negotiation: Terms of Payment; and PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code Section 54957.6) Title: City Clerk.** The following individuals gave comments regarding the Terms of Payment for Point Molate: Don Gosney, David Dolberg, Bruce Beyaert, and Jim Levine. Mr. Gosney asked the City Council not to take action on the Point Molate matter. He stated that there are issues that are secret, and the public should be allowed to hear what is being proposed. David Dolberg stated that the public must have access to the shoreline and the hillsides and the public should be made aware of the agreement with Upstream. Bruce Beyaert also asked the City Council not to take action on amendments to the Upstream agreement, and he asked that the matter be continued to the next City Council meeting. Mr. Beyaert stated that TRAC would like to review the proposed amendments. Jim Levine, representing Upstream Point Molate, stated that in 2005 Upstream spent \$4 million moving the project forward. He said that there was an agreement for an early transfer schedule and the clean up was accelerated. In approximately 12 months, the City of Richmond should have a deed to the property.

There being no further comments, the Open Session adjourned to Closed Session at 9:10 a.m. The Closed Adjourned at 11:47 a.m. and the Open Session adjourned at 11:47 a.m.

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Clerk of the City of Richmond

(SEAL)

Approved:

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Mayor

MorningOpenSession10Jan2006.minutes

## **RICHMOND, CALIFORNIA, January 10, 2006**

The Regular Meeting of the Richmond City Council was called to order at 7:00 p.m., by Mayor Irma L. Anderson, who led the Pledge of Allegiance to the Flag.

### **ROLL CALL**

**Present:** Councilmembers Butt, Marquez, Griffin, Viramontes, and Mayor Anderson. **Absent:** Councilmembers Thurmond, Bates, Rogers, and McLaughlin (all arrived later as indicated in these minutes).

### **AFFIRMATION OF THE CITY OF RICHMOND CODE OF ETHICS**

The City Council affirmed the Code of Ethics.

City Clerk announced to the audience that this was the time to file a Pink Speaker's Card to speak on any item(s) on the Consent Calendar.

### **APPROVAL OF MINUTES**

On motion of Councilmember Viramontes, seconded by Councilmember Marquez, approved the minutes of the Morning Open Session and the Evening Open Session held on December 20, 2005, by the following vote: **Ayes:** Councilmembers Butt, Marquez, Griffin, Viramontes, and Mayor Anderson. **Noes:** None. **Abstentions:** None. **Absent:** Councilmembers Thurmond, Bates, Rogers, and McLaughlin.

### **STATEMENT OF CONFLICT OF INTEREST**

None.

### **AGENDA REVIEW**

Removed Item I-12 from the Consent Calendar.

Withdrew Item N-8 and continued to January 17, 2006.

Moved Item I-10 to Council As A Whole.

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

John Eastman, City Attorney, made the following report:

#### **Conference with Legal Counsel: Anticipated Litigation**

**Parkway Commerce/City of San Pablo** – Confidential direction given to staff.

**Conference with Real Property Negotiator**

**Property: Point Molate** – Confidential negotiation direction given to staff.

## **Public Employee Performance Evaluation**

**Title: City Clerk** – Confidential evaluation procedures discussed.

### **OPEN FORUM FOR PUBLIC COMMENT**

Joe Fisher, Black American Political Action Committee Member, expressed displeasure with the constant disparaging comments made by Corky Booze about Mayor Anderson.

Jim McMillan, Black American Political Action Committee, dovetailed on the comments made by the previous speaker, Joe Fisher. He said that all are concerned about the public appearance of the City Council. He asked that the Council conduct civil discussions, and civil interactions regarding the issues. He reminded the Council that they are collectively for the City and should not allow Mayor Anderson to be blamed for everything that goes wrong in the City. He said that City Councils throughout Contra Costa County conduct their business vastly different from the City of Richmond.

James Jenkins recognized Diane Holmes, City Clerk, for doing a good job. He stated that he expects good things from the City Council during 2006.

Paul Rodgers gave comments regarding the soccer games played at Booker T. Anderson Park. He said that the numbers of games played are overwhelming the park use. He stated that he spoke to a number of Park Officials regarding the situation at Booker T. Anderson, and was told that one competitive soccer game is permitted for play on Saturday afternoon. He said that on many weekends throughout the year there are as many as two to four games being played on Saturday and Sunday, and Cypress Avenue traffic and noise has increased noticeably. He said that up to this point he has not received a response from any City of Richmond Parks and Recreation staff. He asked the Council to remedy the situation.

Robert O. Brown, Park Plaza Neighborhood Council President, commended the City of Richmond Police Department for always responding to his calls. He invited residents of the Park Plaza Neighborhood to attend the Membership Drive, being held at King Elementary School, Thursday, January 12, 2006, 7:00 p.m., to 9:00 p.m. He applauded the young people attending the Council meeting.

Carol Fall gave comments regarding Point Molate. She said that she was pleased that the matter was withdrawn from the meeting agenda because she is concerned that the Council would make amendments to the Land Disposition Agreement (LDA) without public discussion. She said that she is hopeful that any future business conducted regarding Point Molate, will be open to the public with adequate time for review and to understand what is being planned. She said that it would be wise to review the Point Molate Feasibility Study and consider the alternatives included in the study. Additionally, she said that the General Plan Update is a good opportunity to get public input on the use of Point Molate.

Corky Booze stated that he is exercising his First Amendment right to speak in a public setting about existing conditions in the City of Richmond that are not being taken care of. He said that he will continue to stand for the people of Richmond and hold the Council responsible individually and as a group for the welfare of the citizens of the Richmond.

Inge Oliver stated that more violence summits are unnecessary. She said that the money should be used to finance programs, repair streetlights, and clean up the neighborhoods. She thanked Councilmember Butt for personally funding a study of the City's budget.

Debbi Landshoff invited the public to attend a kick-off meeting of the Richmond Residents for Responsible General Plan on Saturday, January 14, 2006, from 1:00 p.m., to 4:00 p.m., at the Madeline F. Whittlesey Community Room.

### **PRESENTATIONS, PROCLAMATIONS, AND COMMENDATIONS**

City Clerk read a proclamation recognizing the many victories of the Richmond Steelers Football Teams in the Annual Las Vegas Pigskin Tournament. Mayor Anderson, Councilmembers Bates, Griffin, and Thurmond, presented the proclamation to Coach Fred Harris, approximately 45 Steelers players, and five coaches. Photographs were taken of the group with the City Council. Councilmember Bates announced that a fundraising dinner will be held on March 2, 2006; at 6:00 p.m., at Salesian Boys and Girls Club and the tickets are \$35.00. All proceeds from the dinner will benefit the 2006 Richmond Steelers. Coach Fred Harris thanked the City Council for the recognition. He announced that United Heritage Industries will adopt the Richmond Steelers and begin an After-School Program. The following individuals gave comments: Kevin Hampton, Nicole Harris, Sal Garcia, and Harold Matthews.

### **CONSENT CALENDAR**

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

\*-Approved an agreement with AlphaCorp to provide a document imaging and an automated agenda preparation system for the City Clerk's Office. The total amount of the contract will not exceed \$150,000.

\*-Approved an amendment to an agreement with Patrick Seals to provide support services in the City Clerk's Office. The total amount of the contract amendment will not exceed \$11,500. The contract period is January 18, 2006, through April 28, 2006.

\*-Approved an agreement with Dell Marketing L.P. for update of leased desktop computer technology, 550 desktop computers, in an amount not to exceed \$600,000.

\*-Awarded a sole source contract for professional services to Harris & Associates, Incorporated, to provide design services for the 2006 Pavement Rehabilitation Project. The total amount of the contract will not exceed \$350,000.

\*-Accepted the work of Bay Cities Paving and Grading, Incorporated, for completion of the Bus Route Improvements. The project was completed on October 31, 2005, for a total cost of \$865,095.99.

\*-Accepted the work of Pagni Construction, Incorporated, for completion of the Castro Ranch Road repairs. The project was completed on November 10, 2005, for a total cost of \$318,500.26.

\*-Commendation for Mother Fannie Evans who celebrated her 102<sup>nd</sup> birthday on December 25, 2005. Mother Evans was born in Texas in 1903.

\*-Adopted **Resolution No. 1-06** amending the City of Richmond's Classification Plan to add the classification of **Modernization Programs Specialist**.

\*-Adopted **Resolution No. 2-06** amending the City of Richmond's Classification Plan to re-title and revise the **Workforce Relations Officer Classification Specification to Labor Relations Manager**.

Continued to January 17, 2006, a proposed resolution authorizing the City of Richmond to participate with other cities and counties in formation of the Association of Refinery Cities and Counties.

\*-Adopted **Ordinance No. 1-06 N.S.** amending Article IX of Chapter 9.55 of the Richmond Municipal Code pertaining to the reduction of air pollution by regulating the installation of wood-burning appliances.

A proposed ordinance for second reading amending Chapter 13.57, Richmond Tourism Business Improvement District, of the Municipal Code of the City of Richmond was presented. This ordinance adds the Richmond Convention and Visitors Bureau and provides a mechanism for the full implementation of the ordinance and the handling of funds collected pursuant to the ordinance. Bruce Souplet, Assistant City Attorney, gave an overview of the matter. He introduced Mr. Edgington who informed the Council that a report will be forthcoming at the end of their first year of operation. There were no questions from the audience. Following discussion, on motion of Councilmember Viramontes, seconded by Councilmember Griffin, adopted **Ordinance No. 2-06 N.S.** by the following vote: **Ayes:** Councilmembers Butt, Thurmond, Marquez, Griffin, Rogers, McLaughlin, Viramontes, and Mayor Anderson. **Noes:** None. **Abstentions:** Councilmember Bates. **Absent:** None.

\*-Adopted **Ordinance 3-06 N.S.** amending Sections 9.20.150 and 9.20.155 of the Municipal Code of the City of Richmond establishing rates for the collection of solid wastes within the City of Richmond for 2006 (**Councilmember McLaughlin voted noe**).

## **PUBLIC HEARINGS**

City Clerk announced this was the time, set pursuant to published notice, to conduct a public hearing to adopt an Order of Vacation of a ± 1500 SF unnamed public right-of-way, located between 200 Bishop Avenue and 180 Bishop Alley. Richard Mitchell, Director of Planning and Building, gave an overview of the matter. He said that staff's request is for the Council to concur with staff's statement concerning the required finding; accept the recommendation of the Planning Commission and adopt the Order of Vacation. Mayor Anderson declared the public hearing open. There were no speakers on the matter. On motion of Councilmember Griffin, seconded by Councilmember Viramontes, closed the public hearing, by the unanimous vote of the Council. On motion of Councilmember Griffin, seconded by Councilmember Viramontes, adopted **Order of Vacation No. 892**, by the unanimous vote of the Council.

City Clerk announced this was the time, set pursuant to published notice, to conduct a public hearing on an appeal by Rod Stare and Bonnie Stare Daley of the Planning Commission's conditional approval of a variance in the 10 foot side-yard setback requirement, variances to the regulations regarding decks on a sloping parcel, a variance to the three and one-half foot (3 ½ ) maximum retaining wall height and Design Review approval to allow the construction of a ± 3,000 sf single-family residence with a ± 484 SF garage at 301 Pacific Avenue. Richard Mitchell, Director of Planning and Building presented an overview of the matter. Staff's recommendation to the Council is to deny the appeal, concur with the staff and Planning Commission's findings and statements, and uphold the Conditional Approval subject to the six conditions set forth by the Commission. Mayor Anderson declared the public hearing open. The following individuals spoke on the matter: Bonita Stare Daley, appellant, Del Olson, opponent, Rod Stare, Lesli Handmacher, Thomas C. Knowles, Mary Jo Martin, Martin McNair, Dennis Rydgro, Jerry Feagley, Jerry Keefe, Christine Cordi, Sally Cole, and Jean Knox. Councilmember Viramontes stated that the view corridor is worth saving and she would not vote on the matter until a tentative map is approved. Councilmember McLaughlin stated that she would vote in favor of the appellant. On motion of Councilmember Bates, seconded by Councilmember Griffin, closed the public hearing by the unanimous vote of the Council. Discussion ensued. A motion made by Councilmember Bates to uphold the Planning Commission conditional approval of VDR 1102-129 subject to the Planning Commission six conditions failed for lack of a second. A substitute motion was made by Councilmember Butt, seconded by Councilmember Viramontes, to continue the matter for one week until Tuesday, January 17, 2006, to encourage the appellant and the applicant to attempt to negotiate and resolve their differences the motion passed by the following vote: **Ayes:** Councilmembers Butt, Marquez, McLaughlin, Viramontes, and Mayor Anderson. **Noes:** Councilmembers Thurmond, Bates, Griffin, and Rogers.

## **AGREEMENTS**

None.

## **RESOLUTIONS**

None.

## **ORDINANCES**

A proposed ordinance amending Chapter 7.104 of the Richmond Municipal Code to impose an annual license requirement on retail sellers of tobacco was presented. John Eastman, City Attorney, gave an overview of the matter. He said that the County Health Department reviewed the draft ordinance and provided feedback. The following individuals spoke on the matter: LaShonda Williams, Charlotte Dickson, Mike Ali, and Corky Boozè. Following discussion, on motion of Councilmember Marquez, seconded by Councilmember Thurmond, said ordinance received first reading and was laid over one week for second reading by the following vote: **Ayes:** Councilmembers Butt, Thurmond, Marquez, Griffin, Rogers, McLaughlin, Viramontes, and Mayor Anderson. **Noes:** None. **Abstentions:** None. **Absent:** Councilmember Bates.

A proposed ordinance amending Ordinance No. 40-01, N.S. establishing wages, salaries, and compensation for the classification of **Labor Relations Manager (Salary Range is \$6,497 to \$7,872 per month)**. There were no questions from the audience. On motion of Councilmember Griffin, seconded by Councilmember Marquez, said ordinance received first reading and was laid over one week for second reading.

A proposed ordinance amending Ordinance No. 33-01, N.S. establishing wages, salaries, and compensation for the classification of **Modernization Programs Specialist (Salary Range is \$3,848 to \$4,602 per month)**. Councilmember Marquez asked for clarification regarding the classification being one of the Housing Authority and not the City of Richmond. Leslie Knight, Assistant City Manager and Human Resources Director stated that Housing Authority employees are under the same merit system as all other city employees. Corky Boozè stated that his question had been answered. Following discussion, on motion of Councilmember Bates, seconded by Councilmember Griffin, said ordinance received first reading and was laid over one week for second reading by the unanimous vote of the Council.

## **COUNCIL AS A WHOLE**

In the matter to approve a Settlement Agreement by and among the City of Richmond, Upstream Point Molate, LLC, Harrah's Operating Company, Incorporated, and the Attorney General of the State of California, the East Bay Regional Park District, and Citizens for Eastshore State Park regarding Point Molate. Bill Lindsay, City Manager, stated that the matter is to consider the settlement agreement. He said the settlement agreement causes the lawsuits to be deemed dismissed with prejudice as of the date the Court approves the agreement. There is no fiscal impact as all costs of the

litigation and settlement are the responsibility of Upstream, Point Molate as the Developer. The following individuals gave comments: Mike Ali and Carol Fall. Following discussion, a motion by Councilmember Viramontes, seconded by Councilmember Marquez, to accept the Settlement Agreement resolving the lawsuit passed by the following vote: **Ayes:** Councilmembers Butt, Thurmond, Bates, Marquez, Rogers, McLaughlin, Viramontes, and Mayor Anderson. **Noes:** None. **Abstentions:** None. **Absent:** Councilmember Griffin.

In the matter to review the procedure for permitting and expediting improvements at the Chevron Refinery and adopt the ordinance amending Sections 6.02.020 and 6.02.150 to eliminate the exemption for Process equipment, and repealing section 6.020.200 to eliminate the Certified Inspection Program. The following individuals spoke on the matter: Corky Booze, Dean O'Hair, and Kevin Golden. A motion by Councilmember Viramontes, seconded by Councilmember McLaughlin, approved the procedure by the unanimous vote of the Council.

Continued to Tuesday, January 17, 2006, the matter of a review of a Comprehensive Code Enforcement Program. Richard Mitchell, Director, Planning and Building Services gave an overview of the matter.

In the matter of a discussion of an Internal Audit Program for the City of Richmond. Bill Lindsay, City Manager, gave an overview of the matter. He recommended that the Council review the goals and objectives underlying the adoption of the ordinance and consider alternative program procedures for achieving those goals and objectives. Specifically, he recommended that the Council continue to appoint a professional audit advisory committee, but rather than hiring a full time internal auditor develop a work scope and budget in conjunction with the Finance Committee, and then have City Council approval as part of the overall budget process. Rather than having, an established internal department to bring in contract experts in various areas who, in some cases, may be added on to the City's regular financial audit to do specific financial auditing. Following discussion, on motion of Councilmember Viramontes, seconded by Councilmember Griffin, approved the Alternative Program Procedure for implementing the Internal Audit Program by the unanimous vote of the Council.

In the matter of a discussion of a proposal for training and employing at-risk Richmond residents in the construction industry. Sal Vaca, Employment and Training Director, gave an overview of the matter. He said that staff requests Council review a proposal prepared by Coming Anew Reunification Program to train and employ 150 Richmond residents over an 18-month period in the construction industry. The fiscal impact will be \$425,000 over an 18-month period. If the program is approved and supported in concept by the Council, there are a number of funding sources that can be identified to provide the funding. Mr. Vaca stated that the proposal is timely and appropriate for the community because the projects that are underway and those in the city's pipeline for construction have a potential for generating a nexus of three to four thousand construction jobs over the next five to six years. United Heritage Industries will contribute over \$500,000 over the life of the project to match and exceed the \$425,000

requested of the City. Councilmember Thurmond gave comments on the matter. The following individuals spoke on the matter: Antwon Cloird, Kevin Hampton, Teresa Armstrong, Demi Rihne, Harold Matthews, Sal Garcia, Robert O. Brown, Corky Booze, Mike Ali, JoAnn Tillmon, Kay Maher, and Ted Smith. Discussion ensued.

Councilmember Viramontes commented that she wants a plan document that prioritizes the strategies, attaches a budget, and explains to the City Council how the funds will be spent, as a start. She said until then, the matter is being piecemealed. Following discussion, on motion of Councilmember Thurmond, seconded by Vice Mayor Rogers directed the City Manager to bring back the matter as part of a larger comprehensive plan to reduce violence in the City by the following vote: **Ayes:** Councilmembers Butt, Thurmond, Bates, Marquez, Griffin, Rogers, McLaughlin, and Mayor Anderson. **Noes:** None. **Abstentions:** Councilmember Viramontes. **Absent:** None.

Continued to January 17, 2006, the matter to consider requesting the Redevelopment agency to increase funding for paving streets in redevelopment areas from \$1 million to \$1.5 million.

In the matter of a discussion establishing an Anti-Violence Program Coordinator position in the City Manager's Office. Bill Lindsay, City Manager, said that in terms of funding for the matter, there are costs savings in the internal audit program that can provide the funding for the Anti-Violence Programs. He said that between the scope of work for the internal audit program and the \$150 to \$200 thousand dollars for an Anti-Violence Coordinator, it is possible to have both an internal audit program and the anti-violence coordinator. The following individuals spoke on the matter: Tina Westbrook, Corky Booze, Larry Crosby, Kevin Hampton, Sal Garcia, and Jason Stenson. Following discussion, on motion of Councilmember Viramontes, seconded by Councilmember Thurmond, approved the staff request by the following vote: **Ayes:** Councilmembers Butt, Thurmond, Marquez, Griffin, Rogers, McLaughlin, Viramontes, and Mayor Anderson. **Noes:** Councilmember Bates.

Withdrew from the agenda the matter to consider approval of an amendment to the Land Disposition agreement between the City of Richmond and Upstream Point Molate, LLC.

## **COMMUNICATIONS**

### **Referrals to staff from the City Council.**

## **REPORTS OF OFFICERS: STANDING COMMITTEE REPORTS, REFERRALS TO STAFF, AND GENERAL REPORTS**

### **Reports of Chairpersons of:**

There were no reports from the following:

- a. Finance Standing Committee

- b. Public Safety Standing Committee
- c. Rules and Procedures Standing Committee
- d. Report from the Mayor

**General Reports from Councilmembers and staff**

**Mayor Anderson**

Announced the Recreation and Parks Department will have a Dr. Martin Luther King, Jr., Commemorative Celebration on Saturday, January 14, 2006, at 1:00 p.m., at the Richmond Convention Center.

**ADJOURNMENT**

There being no further business the meeting was adjourned at 12:00 a.m., in memory of Dr. Martin Luther King, Jr., to meet again on Tuesday, January 17, 2006, at 7:00 p.m.

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Clerk of the City of Richmond

(SEAL)

Approved:

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Mayor