

RICHMOND, CALIFORNIA, August 2, 2005

The Special Meeting of the Richmond City Council was called to order at 7:34 p.m., by Mayor Irma L. Anderson.

ROLL CALL

Present: Councilmembers Butt, Thurmond, Bates, Marquez, Griffin, Rogers, McLaughlin, Viramontes, and Mayor Anderson. **Absent:** None.

COUNCILMEMBERS' CODE OF CONDUCT

Acting City Clerk read the Councilmembers' Code of Conduct.

APPROVAL OF MINUTES

None.

STATEMENT OF CONFLICT OF INTEREST

Councilmember Butt stated that he is a property owner in the proposed NICE District and would abstain on agenda item J-1.

AGENDA REVIEW

On motion of Councilmember Butt, seconded by Councilmember McLaughlin, requested that Public Hearing item J-2 regarding an appeal by Mildred Carlton be held over two weeks because of National Night Out. Peter Haas representing the applicant stated that the matter has been continued four times since approval by the Planning Commission. Mr. Haas said that he will be out of the country and asked that the matter be heard tonight. Discussion ensued. Councilmember Butt withdrew his motion.

Councilmember Viramontes requested Item N-2 regarding the Chevron Stop Work be held over until September 13, 2005, in order to receive a legal report from the staff.

Everett Jenkins, Interim City Attorney, requested Item I-6 be added back to the agenda to consider adopting a resolution and delete paragraph 13.11 from the agreement.

A motion by Councilmember Marquez, seconded by Councilmember Viramontes to add to the agenda a proclamation honoring the Richmond Youth Basketball League passed, by the consent of the Council.

Removed Items I-1; I-4; and I-10 from the Consent Calendar.

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

Public Employment

Interview process for the City Attorney position conducted.

Public Employee Performance Evaluation

Investigative and Appeals Officer – Performance Evaluation discussion. On motion of Councilmember Viramontes, seconded by Councilmember Griffin, voted to authorize the Investigative and Appeals Officer to investigate an employee matter with reporting to be done through the Human Resources Director passed by a vote of 6 ayes and 1 noe (McLaughlin) 2 absent (Bates and Marquez). Councilmember McLaughlin corrected the City Attorney’s report stating that she voted in the affirmative on the matter. Therefore, the vote was 7 ayes and 2 absent.

City Clerk – No discussion.

City Manager – No discussion.

Conference with Legal Counsel: Existing Litigation

Turner vs. City of Richmond – On motion of Councilmember Marquez, seconded by Councilmember Viramontes, voted to settle the case in the amount of \$19,929.71 with possible subrogation to Veolia by a vote of 7 ayes and 0 noes, (Bates and Griffin were absent).

Hsieh vs. City of Richmond – On motion of Councilmember Viramontes, seconded by Councilmember Marquez, voted 5-0-1 (Thurmond abstained), (Bates, Griffin, and Rogers absent) voted to settle the case in the amount of \$36,000, with possible subrogation to Veolia.

Conference with Legal Counsel: Potential Litigation

Bay Keeper – Council voted 9-0 on a motion by Councilmember Viramontes, seconded by Councilmember Bates, authorized the engagement of outside legal counsel to represent the City of Richmond in the potential legal action.

Chevron - A report and discussion. No final action taken. The matter will be brought back for further discussion during the month of September.

Conference with Real Property Negotiator

Property: Terminal One
Negotiating Parties: City of Richmond, Richmond Redevelopment Agency, and Toll Brothers, Incorporated.
A motion by Councilmember Viramontes, seconded by Vice Mayor Rogers, voted 5-2 (Butt and McLaughlin voted noe; Marquez and Griffin were absent), gave direction to the real property negotiators.

OPEN FORUM FOR PUBLIC COMMENT

Juanita Taylor, Local 790 SEIU President, gave comments regarding revenue the City has but no decision has been made regarding a decision how to expend City revenues. She said that services should be restored. Also, she said that the City should avoid outsourcing the work and use the staff on hand. She also asked the Council if they are receiving their money’s worth from hose employees earning \$100,000 per year. Regarding the Personnel Board she said that it has been difficult

convening a meeting. Regarding the “Three Strikes” law she said that it is necessary.

Herk Schuestaff gave comments regarding Richmond’s Scenic Corridor and the hills above El Sobrante Valley along the northern boundary of Wildcat Canyon Regional Park. He stated that he is promoting efforts to interest the younger residents in the park-like lands. Regarding the Forest Green proposal he said that a better and more reasonable idea would be to selectively place and approve a modest number of homes that provide fair and generous profit to the regional investors and simultaneously preserve the priceless environmentally sensitive lands.

Bob Collins gave comments regarding the look of the Macdonald Avenue corridor. He said that four young men are mainly responsible for keeping the corridor clean and neat. He said that they work four to five hours per day to keep the area clean. He also thanked the vendors and the community for their help.

Cynthia Peters said that the Richmond police are responsible for the loss of her dog worth \$2,470. She said that the police placed her property and her life in grave and imminent danger, and murdered her best friend (dog) in front of her and did not offer her any help with therapy for the pain and suffering. She said that her dog had done nothing and was deliberately and callously lured by three officers out his gate into an ambush and shot eight times in the chest. She said that her dog came out of the gate wagging its tail and smiling. She said that the police shot her dog unnecessarily and without conscience.

Mike Ali gave comments regarding the West Contra Costa Unified School District’s planned bond measure. He asked the Council and the voters of Richmond not to support the measure.

Charlotte McIntire gave comments regarding the West Contra Costa Unified School District’s medical coverage. She said that the District will be going into deep debt because of its refusal to renegotiate the medical coverage portion of the contract.

Margaret Morkowski, Richmond Centennial Committee member, invited everyone to the events beginning Saturday. She said Sunday will be the official 100th Birthday Celebration event.

Corky Boozé thanked Marie Ries and Ramona Samuels for the Music on the Main and everyone involved. Secondly, he thanked the City employee responsible for graffiti removal. He said that the employee should be the employee of the month.

Ethel Dotson reported that the employee responsible for sweeping her street is not doing their job. She also gave comments regarding the liquor stores and public storage facilities, stating that they should be made responsible for cleaning up the trash their customers generate.

PRESENTATIONS, PROCLAMATIONS, AND COMMENDATIONS

Acting City Clerk read a proclamation in recognition of National Night Out. Mayor Anderson stated members of Crime

Prevention, Police and Fire are in the midst of celebrating National Night Out and that she will wait until September to present the proclamation. This year's theme is "Give Crime and Drugs a Going Away Party".

Sal Vaca, Employment and Training Director, introduced John Troughton of Cushman and Wakefield who gave comments regarding the Summer Youth Interns that worked in his company. He presented Koi Saechao and Alex VanHook with Certificates of Recognition in appreciation for their valuable assistance during their internship.

Acting City Clerk read a proclamation honoring the Richmond Youth Basketball League and Recreation Program Director, Jerry Anderson, for their hard work, dedication and sportsmanship for achieving the Junior NBA/Junior WNBA National League of the Year Award. The Richmond Youth Basketball League was one of five recognized by NBA Commissioner David Stern and WNBA President Donna Oreander. Jerry Anderson, on behalf of the Recreation Division, thanked everyone for the proclamation. Mr. Anderson introduced each of the League members who shook hands with each of the Councilmembers.

CONSENT CALENDAR

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

A proposed approval of the expenditure of funds to repair an aerial man-lift truck. The total cost of the repairs is \$15,857.11.

*-Approved an amendment to an agreement with Victor Ochoa. The contract amendment is \$25,000 for a total of \$34,999.99.

*-Adopted **Resolution No. 109-05** supporting the Richmond Public Library leaving the North Bay Cooperative Library System and joining the Bay Area Library and Information System (BALIS).

A proposed resolution abandoning City of Richmond's easement over land owned by SCS Development Company and Warmington Homes was presented. There were no questions from the audience. On motion of Councilmember Viramontes, seconded by Councilmember Griffin, adopted **Resolution No. 110-05**, by the unanimous vote of the Council.

*-Adopted **Resolution No. 111-05** approving the purchase of an upgrade for the Library's integrated system. The total amount of purchase is \$165,000 and approving the annual maintenance contract with Innovative Interfaces in the amount of \$37,548 for FY 2005/06 and \$39,228 for FY 2006/07.

*-Withdrew from the agenda a resolution authorizing the Finance Director to execute an Administrative Services Agreement with Hartford Life Insurance Company to become the City's third Deferred Compensation Plan provider.

*-Adopted **Resolution No. 112-05** approving partial purchase with Useful for a sole-source upgrade for the Library's public access computers in an amount not to exceed \$15,000.

*-Adopted **Resolution No. 113-05** establishing standing orders/outline agreements for technology related goods and services with the following, but not limited to: Compucom; ESRI; Kray Cabling; Tech Futures; SSP Data Products; Systems Applications and Products; GovPlace; CDWG; HP Direct; Data Matrix; and Dell. The total amount per year per vendor is \$150,000 for fiscal years 2005-2006 and 2006-2007.

*-Adopted **Ordinance No. 33-05, NS**, establishing wages, salaries, and compensation for the classification of Stationary Engineer Supervisor. The Salary range is \$5,355 to \$6,468 per month. This position was included in the 2005/2006 budget.

A proposed second reading and adoption of an ordinance regarding Residential Rental Dwelling Unit Inspection and Maintenance Ordinance. There were no questions from the audience. On motion of Councilmember Viramontes, seconded by Councilmember Griffin, adopted **Ordinance No. 34-05, NS** by the unanimous vote of the Council.

PUBLIC HEARINGS

Acting City Clerk announced this was the time set, pursuant to a mailed notice, to hold a public hearing for a proposed ordinance establishing the Point Richmond Neighborhood Improvement and Community Enhancement (N.I.C.E.) District. Bill Lindsay, City Manager, gave an overview of the matter. He noted for the record that up to the close of the public hearing the affected property owners may change their mind and submit another ballot. Mayor Anderson declared the public hearing open. Mr. Lindsay pointed out that even if there is a majority support for the District, the City Council still has the option of not approving the District; further explaining, that if there is a weighted no vote, the Council is obligated to end the proceedings. If there is a weighted yes vote, the Council has the option of either of approving or not approving the District. Mr. Lindsay removed Parcel No. 558-140-024-216, included in error, at the request of New City America, the consultant, reducing the total budget for the district to \$97,281.56, which is the initial assessment and would be authorized for 20 years, and may be adjusted annually based on the change in the CPI. He said that it cannot increase more than 5 percent in any single year. The following individuals spoke on the matter: James Byers, owner of Hotel Mac and two small office buildings; Jay Betts, Architect owner of 217 West Richmond; Marsha Tomassi, owns residential properties; Cindy Sunderman, business property owner-Vertigo Software Company; Martin McNair, owner of Bradley's Garage and 105-107 West Richmond Avenue; Richard Lompa, owner of the old Point Richmond fire station and jail. Darlene Drapkin, commercial revitalization specialist; Paula Asmus, Point Richmond business owner; Mike Nova, restaurant owner with a triple net lease; Margaret Morkowski, Sally Dewitt, Joshua Genser, Anthony Murphy, Kristin Gates; Ernest Lompa, Page Poulos; Al Engel; Tarnel Abbott; Cricket Deetz; June Davies; and Annie Janes. Discussion ensued. A motion was made by Vice Mayor Rogers, seconded by Councilmember Viramontes, to

abstain on how the City Council votes on its 8.3% share. A substitute motion by Councilmember Bates, seconded by Councilmember McLaughlin for the City of Richmond to vote no on its share of 8.3%, failed by the following vote: **Ayes:** Councilmembers Bates, Marquez, and McLaughlin. **Noes:** Councilmembers Thurmond, Griffin, Rogers, Viramontes, and Mayor Anderson. **Abstain:** None. **Absent:** Councilmember Butt. On the original motion for the City to abstain on its vote, regarding the City's 8.3% shares passed by the following vote: **Ayes:** Councilmembers Thurmond, Griffin, Rogers, McLaughlin, Viramontes, and Mayor Anderson. **Noes:** Councilmember Bates. **Abstentions:** Councilmember Marquez. **Absent:** Councilmember Butt. City Manager, Bill Lindsay, reported the final tally as follows: following: Weighted percentage in favor: 29.04%. Weighted percentage against: 70.96%. Therefore the proceedings are abandoned. He further stated that there were 49 of 59 properties casting ballots – 14 properties voted in favor, and 35 properties voted against. On motion of Councilmember Bates, seconded by Councilmember Marquez, abandoned the N.I.C.E. District proceedings by the following vote: **Ayes:** Councilmembers Thurmond, Bates, Marquez, Griffin, Rogers, McLaughlin, Viramontes, and Mayor Anderson. **Noes:** None. **Abstentions:** None. **Absent:** Councilmember Butt.

Acting City Clerk announced this was the time set pursuant to published notice, to hold a public hearing on an appeal by Mildred Carlton from the Planning Commission's approval of a Conditional Use Permit to operate a 4,585 SF Family restaurant and bar and to consider authorizing a Conditional Use Permit to permit a new nonconforming use in a portion of the building at 12889 San Pablo Avenue. Richard Mitchell, Interim Planning Manager, and Judith Battle, Senior Planner, gave an overview of the matter. Mayor Anderson declared the public hearing open. The following individuals spoke on the matter: Stuart Flashman, representing the appellant; Peter Hass, representing the applicant; Mildred Carlton, appellant; Mike Ali; Ray Smith; Gene Smith; Virginia Fletes; Doug Chilton; Angelica Lara; Juan Nunez; Fred Salkind; and Debbi Landshoff. On motion of Councilmember Marquez, seconded by Councilmember Viramontes, closed the public hearing by a unanimous vote. A motion was made by Vice Mayor Rogers, seconded by Councilmember Marquez to deny the appeal, and include an indemnification agreement between the City of Richmond and the applicant from any and all claims and costs. A substitute motion was made by Councilmember Butt, seconded by Councilmember McLaughlin, to grant the appeal based on the long history of bad experiences at the location failed by the following vote: **Ayes:** Councilmembers Butt, Thurmond, McLaughlin, and Viramontes. **Noes:** Councilmembers Bates, Marquez, Griffin, Rogers, and Mayor Anderson. **Absent:** None. **Abstentions:** None. The original motion to deny the appeal passed and **Resolution No. 114-05** was adopted by the following vote: **Ayes:** Councilmembers Thurmond, Bates, Marquez, Griffin, Rogers, and Mayor Anderson. **Noes:** Councilmembers Butt, McLaughlin, and Viramontes. **Abstentions:** None. **Absent:** None. A motion was made by Councilmember Bates, seconded by Councilmember Griffin, to continue the meeting for ten minutes by the consensus of the Council.

Acting City Clerk announced this was the time set pursuant to a published notice to accept the Engineer's Report for Fiscal Year 2005-2006 and approve the Resolution to Levy Annual Assessments for the Hilltop Landscape Maintenance Assessment District. Sharon West, Parks and Landscaping, gave an overview of the matter. Mayor Anderson declared the public hearing open. There being no comments from the audience, on motion of Councilmember Bates, seconded by Councilmember Viramontes closed the public hearing by the unanimous vote of the Council. On motion of Councilmember Bates, seconded by Councilmember Viramontes, adopted **Resolution No. 115-05** by the unanimous vote of the Council.

Acting City Clerk announced this was the time set, pursuant to published notice, to hold a public hearing to vacate a 40' x 103' unimproved portion of Fall Avenue east of South 52nd Street. Richard Mitchell, Interim Planning Manager, gave an overview of the matter. Mayor Anderson declared the public hearing open. Richard Mitchell, Interim Planning Manager, gave an overview of the matter. The following individual spoke on the matter: Corky Booze. On motion of Councilmember Griffin, seconded by Councilmember Bates, closed the public hearing by a unanimous vote. On motion of Councilmember Griffin, seconded by Councilmember Viramontes, adopted **Resolution No. 116-05**, by the unanimous vote of the Council.

Acting City Clerk announced this was the time set, pursuant to published notice, to adopt a resolution establishing the Library Impact Fee, as authorized by Ordinance No. 24-05 N.S., to mitigate the demand for services that future residential and commercial development will place on the Richmond Public Library. Monique Le Conge, Librarian, gave an overview of the matter. Mayor Anderson declared the public hearing open. There were no speakers. On motion of Councilmember Viramontes, seconded by Councilmember McLaughlin, closed the public hearing by the unanimous vote of the Council. On motion of Councilmember Butt, seconded by Councilmember Viramontes, adopted **Resolution No. 117-05** by the unanimous vote of the Council.

Acting City Clerk announced this was the time set pursuant to published notice, to accept the report of the Director of Public Services for sewer service charges and approve the levy of sewer charges. Mayor Anderson declared the public hearing open. The speakers waived their right to speak. On motion of Councilmember Bates, seconded by Vice Mayor Rogers, closed the public hearing by the following vote: **Ayes:** Councilmembers Butt, Thurmond, Bates, Griffin, Rogers, McLaughlin, Viramontes, and Mayor Anderson. **Noes:** None. **Abstentions:** Councilmember Marquez. **Absent:** None. On motion of Councilmember Viramontes, seconded by Councilmember Griffin, adopted **Resolution No. 118-05** by the unanimous vote of the Council.

AGREEMENTS

None.

RESOLUTIONS

None.

ORDINANCES

Continued to September 13, 2005, introduction and First Reading of a proposed ordinance amending Section 10.06.010 of Chapter 10.06 of the Richmond Municipal Code pertaining to prohibited conduct in the Richmond Public Library. This proposed ordinance will establish a wider range of behaviors that will be defined as prohibited and the posted Rules of Behavior will be clear and enforcement efficient.

COUNCIL AS A WHOLE

In the matter to consider recommendations by Mayor Anderson for the following appointments to the **Workforce Investment Board**: (1) James Brumfield, (2) Elmer Bugg, (3) Kevin Hampton, (4) Linda Hendrickson, (5) Jason Hodge, (6) Lisa Kanemoto, (7) Dennis McWhorter, (8) Eddrick Osborne, (9) Bee Tan, and (10) Clinton Boswell. On motion of Councilmember Bates, seconded by Councilmember Butt, approved the Mayor's recommendations, by the unanimous vote of the Council.

Continued to September 13, 2005, the matter of a staff report and consideration of action by the City Council on a Stop Work Order for Chevron Construction project.

Continued to September 13, 2005, the matter of a discussion and recommendation to propose a draft ordinance to require a Conditional Use Permit requirement on major project developments.

Continued the matter to consider a resolution requesting the Governor and Legislature of California to re-visit the "Three Strikes" Law.

In the matter to consider adopting a resolution to approve a new classification specification of Human Resources Personnel Officer. The salary range is \$6,137 to \$11,396 per month. This position will be funded by a \$37,100 reduction in Contractual Services and \$107,343 in salary savings as a result of charges to the Risk Management Division for costs incurred for supervision and other administrative functions. On motion of Councilmember Viramontes, seconded by Councilmember Griffin, adopted **Resolution No. 119-05** by the unanimous vote of the Council.

In the matter to introduce an ordinance for first reading establishing wages, salary, and compensation for the classification of Human Resources Personnel Officer, and amending Full-Time General Employees Ordinance No. 33-00, N.S. There were no questions from the audience. On motion of Councilmember Viramontes, seconded by Councilmember Griffin, said ordinance received first reading and was laid over for second reading by the unanimous vote of the Council.

COMMUNICATIONS

None.

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

There were no reports or referrals.

ADJOURNMENT

There being no further business adjourned the meeting at 12:50 a.m., to meet again on Tuesday, September 13, 2005, at 7:00 p.m.

City Clerk

(SEAL)

Approved:

Mayor