

RICHMOND, CALIFORNIA, October 4, 2005

The Regular Meeting of the Richmond City Council was called to order at 7:14 p.m., by Mayor Irma L. Anderson.

ROLL CALL

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

COUNCILMEMBERS CODE OF CONDUCT

The City Clerk read the Councilmember's Code of Conduct.

APPROVAL OF MINUTES

On motion of Councilmember Bates, seconded by Councilmember Marquez, approved the minutes of the meeting held on September 20, 2005, by the following vote: **Ayes:** Councilmembers Thurmond, Bates, Marquez, Griffin, Rogers, and Mayor Anderson. **Noes:** None. **Abstain:** None. **Absent:** Councilmembers Butt, McLaughlin, and Viramontes.

STATEMENT OF CONFLICT OF INTEREST

None.

AGENDA REVIEW

Removed Item I-5 from the Consent Calendar.

Added a presentation to the agenda. A motion was made by Councilmember Marquez, seconded by Vice Mayor Rogers; the Council consented to the addition to the agenda.

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

Public Employee Performance Evaluation

City Clerk – Discussion held. No final action taken.

Conference with Legal Counsel: Existing Litigation

Baykeeper vs. City of Richmond – A motion was made by Vice Mayor Rogers, seconded by Councilmember Bates, authorized the City Manager to execute a memorandum agreement for the payment of legal services provided for the West County Wastewater District, the City of Richmond, and Veolia by Downy Brand and an initial expenditure of \$30,000 to cover the legal expenses, by a vote of 8 ayes and 0 noes (Viramontes absent).

Rolfson vs. City of Richmond – On motion of Councilmember Marquez, seconded by Vice Mayor Rogers, authorized a settlement for \$38,000 by a vote of 9 ayes and 0 noes.

Low vs. City of Richmond – On motion of Councilmember Viramontes, seconded by Vice Mayor Rogers, authorized a settlement for \$15,000 by a vote of 9 ayes and 0 noes.

Real Property Negotiations

Terminal One – A motion was made by Councilmember Bates, seconded by Councilmember Viramontes, gave direction to the Real Property Negotiators by a vote of 6 ayes and 3 noes (Butt, McLaughlin, and Rogers).

OPEN FORUM FOR PUBLIC COMMENT

Naomi Williams announced the Pullman Neighborhood's Annual Picnic being held on Saturday, October 8, 2005. She also asked for information regarding the status of the fence ordinance.

Eduardo Rodriguez gave comments regarding public safety and the need for more police presence in the community where he lives near 23rd Street and Clinton Avenue. He said that he telephoned the police but there was never any response to his call. He stated that his windshield was broken the next morning. His concern is the need for choosing the best police chief and hiring more bilingual police officers.

Arnett Spears made comments regarding criminal activities involving a group he called the "S.L.A.". He asked for a meeting with the mayor and the police chief.

John Anderson, Bay Area Rescue Mission President, thanked the Council for the proclamation celebrating the Mission's 40th Anniversary. He gave comments regarding plans for The Greater Richmond Interfaith Program (GRIP) to distribute lunch from a truck at the 4th Street Park on a temporary basis. He stated that he did not think it would be in the best interest of the neighborhood. He further stated that he learned that the plan changed and the lunch distribution will take place at the church directly across the street from the Rescue Mission at 2nd Street and Macdonald Avenue, without any input from the Rescue Mission.

Nancy Burke gave comments regarding a murder that took place near her place of business. She stated that she works with many small children and this incident has been terrifying. She said that the violence in Richmond has to end. She stated that a petition has been circulated in the Richmore Village neighborhood reflecting the concerns of the Richmore Neighborhood Council. She asked for help from the Council and asked that Mary Renfro, Assistant City Attorney, and Code Enforcement be encouraged to assist.

Corky Booze thanked the Richmond residents for encouraging him to continue attending the City Council meetings. He gave comments regarding the statement made by John Anderson of the Richmond Rescue Mission.

Mike Ali asked the voters of Richmond to vote no on Measure J, the School Bond Measure.

Susan Prico spoke on behalf of the West County Property Owners Alliance. She stated that the group opposes Measure J.

Lisa Perez made comments regarding the West County Unified School District's proposed Measure J on the November ballot. She stated that the District should scale back spending.

Dan Moriarty, Richmore Neighborhood Council President, gave comments regarding the recent homicide that occurred within the boundaries of the Richmond Neighborhood Council.

Walter Connelly gave comments regarding the Point Richmond Gateway Project. He stated that Design Review Board approved conceptual drawings without conducting a survey or dimensions. He added that there was not a traffic study, parking, on consideration of future projects. He stated that currently all of the traffic converges in front of the Plunge and will be a future problem if something is not done now.

Richard Lompa gave comments regarding the closure of the end of West Richmond Street and Cutting Boulevard. He stated his astonishment regarding how far the Richmond Gateway Project has come. He requested that all work be stopped until a public forum is conducted.

Jay Betts said that the gateway to Point Richmond has been blocked. He said that using the railroad property for parking has been a dream of citizens for many years, but has now become a land grab for a private development group, who plans to develop Plunge parking, railroad property, and the end of West Cutting Boulevard into a 14,000 SF office building project including a "historic" railroad building. He further stated that this incremental change in the design scheme has occurred without proper information.

PRESENTATIONS, PROCLAMATIONS, AND

City Clerk read a proclamation from the City of San Pablo commemorating the 100th Anniversary of the City of Richmond.

City Clerk announced presentation of a proclamation to STAND! Against Domestic Violence, a nonprofit agency, declaring October 2005 as "Domestic Violence Awareness Month." Mayor Anderson announced that the representative was unable to attend the meeting. She said that the proclamation will be presented to the recipient on Wednesday, October 5, 2005.

City Clerk announced a presentation of funds raised by the Richmond Faith Community for the New Orleans victims of Hurricane Katrina. JoAnn Tillmon presented the report and a check for \$3,855 on behalf of the City of Richmond Area Relief Coalition – Hurricane Katrina Relief. Ms. Tillmon asked Mayor Anderson to present a letter and the check to New Orleans, Louisiana Mayor Nagin offering the community's support. Craig Murray, Richmond Management Employee Association, Local 21 President, presented a \$2,500 check.

City Clerk read a proclamation declaring October 9-15, 2005, as "Fire Prevention Week" in the City of Richmond. The 2005 theme for Fire Prevention Week is "***Use Candles with Care – When you go out, blow out!***" Richard Kalayjian, Fire Inspector, gave an overview of the planned activities. He said that the theme takes aim at home fire deaths resulting from

candles left unattended. Richmond fire fighters in collaboration with the Fire Prevention Bureau will conduct fire safety demonstrations in many Richmond elementary schools and conduct station tours. A public service announcement will be aired on KCRT.

CONSENT CALENDAR

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

*-Approved a proclamation recognizing October 5, 2005, as “All Schools Shelter-in-Place Drill and Education Day.”

*-Approved a contract to lease a single-story house to provide the residential component of the Transitional Living Grant to provide housing for youth transitioning from the Foster Care System. The lease period is one year, beginning October 15, 2005, and ending October 15, 2006. The total amount of the contract will not exceed \$20,700.

*-Approved an agreement with the West Contra Costa Unified School District to provide remedial education and GED preparation for out-of-school youth. The contract period is October 5, 2005, through June 30, 2005. The total amount of the contract will not exceed \$65,000.

*-Approved an agreement with the Oakland Private Industry Council to process Individual Training Accounts (ITAs) to provide classroom and skills training for Richmond residents. The contract period is July 1, 2005, through September 30, 2005. The total amount of the contract will not exceed \$111,192.

A proposed award of a Sole Source contract to Vali Cooper and Associates to provide project/construction management services during the bidding and construction of the western segment –Phase II of the Central Richmond Greenway Bicycle Trail was presented. The total amount of the contract will not exceed \$200,000. Rich Davidson, City Engineer, gave an overview of the matter. He stated that the purpose of the contract is to provide construction management services for the Richmond Greenway Project Phase I – Garrard Boulevard to 23rd Street. He explained that Vali Cooper was in charge of developing the preliminary and redesign project plans and their familiarity with the project as well as the contacts they have established are invaluable and it would be helpful to contract with Vali Cooper during the bidding and construction of the project. The following individual spoke on the matter: Corky Booze. Following discussion, a motion was made by Councilmember Griffin, seconded by Councilmember McLaughlin, to approve the contract by the unanimous vote of the Council.

PUBLIC HEARINGS

City Clerk announced this was the time set, pursuant to published notice, to conduct a public hearing to consider the following two items regarding Anchorage at Marina Bay, a proposed development at 1689 Regatta Boulevard, a portion of the DiCon Fiber Optics site. Richard Mitchell, Interim Planning Manager, gave an overview of the items. Mayor Anderson

declared the public hearing open. (Please note that the items were considered simultaneously by the City Council):

- a. Adopt a Mitigated Negative Declaration and approve a General Plan Amendment and Rezoning to Planned Area, PA, for an existing ±11.42 acre vacant site located at 1689 Regatta Boulevard for development of 208 residential townhouses.
- b. Appeal by Pulte Homes Corporation of the Planning Commission's denial of the proposed Anchorage at Marina Bay Tentative Map, Conditional Use Permit, and request for a Landscape Buffer Exception, and Design Review Application to develop 208 townhomes at 1689 Regatta Boulevard, a portion of the DiCon Fiber Optics site.

The following individuals spoke on the matter: Dennis O'Keefe, applicant; Corky Booze, Dennis Ruse, Irwin Friedman, Bruce Word, Gilda Waldman, John Troughton, Patricia Kiely, Peter McMorrow, Dante Gaza, Sarah Knight, Jim Bates, C.T. Lee, William Walter, John Nowland, Billie Blanchard, Frank Taylor, Jim Cannon, Alistair Macdonald, Michael Miller, Ho Sang Li, DiCon CEO; Robert Alvarado, Manny Gonzales, Louis Hagler, Charles Coleman, Aram Hoddess, Walter Mahoney, Diane Hedler, Dennis Hicks, and John Cackle. A motion was made by Councilmember Bates, seconded by Councilmember Marquez, to close the public hearing. Discussion ensued and the public hearing was closed by the unanimous vote of the Council. Richard Mitchell, Interim Planning Director, gave final comments on the matter. A motion was made by Councilmember Bates, seconded by Councilmember Marquez, to adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, and reverse the Planning Commissions' recommendation to deny the requested General Plan Amendment and rezoning application to allow development of 208 town homes at 1689 Regatta Boulevard. A substitute motion was made by Vice Mayor Rogers, seconded by Councilmember Butt, to approve the project, delete the \$1.75 million dollar contribution to a temporary bypass road, and add a condition for a contribution of \$5 million dollars towards an overpass. Councilmember Butt made the following friendly amendment: 1. The developer agrees to eliminate the Marina Bay exit unless it can be shown that it does not interfere with the grade separation project, 2. Instead of making a \$5 million dollar contribution to the grade separation, the developer would make a \$5 million dollar contribution and would be responsible for acquiring the property rights and building the bypass and any money left over would go towards the grade separation, and 3. As a condition of approval of the project, the developer would establish at least a four-crossing quiet zone at Marina Bay. The developer has offered \$250,000 for the quiet zone; and any money left would go towards the overpass. Vice Mayor Rogers did not accept amendment number 2 as suggested by Councilmember Butt. The substitute motion failed by the following vote: **Ayes:** Councilmembers Butt and Vice Mayor Rogers. **Noes:** Councilmembers Thurmond, Bates, Marquez, Griffin, McLaughlin, Viramontes, and Mayor Anderson. **Abstentions:** None. **Absent:** None. Councilmember Bates amended his original motion to include the adoption of the Mitigated Negative Declaration, adoption of an ordinance to amend the General Plan and rezoning to Planned Area, PA; and the matter regarding an

overpass or bypass issue should be negotiated between staff and the developer. Everett Jenkins, Interim City Attorney, asked the Planning Director to state for the record the findings the City Council. Those findings are part of the Planning Staff's August 4, 2005, Report for EID/GPA/RZ 1101026 Rezoning Finding 1a, b, c, d; Rezoning Finding 2; Environmental Findings; and Staff Recommendations 1 and 2(a-h). The original motion failed by the following vote: **Ayes:** Councilmembers Thurmond, Bates, Marquez, and Mayor Anderson. **Noes:** Councilmembers Griffin, Rogers, McLaughlin, and Viramontes. **Absent:** None. **Abstain:** Councilmember Butt. A motion was made by Vice Mayor Rogers, seconded by Councilmember Butt, to approve the project and double the amount of the contribution by the applicant to \$3.5 million toward the acquisition and/or construction of an overpass road; the developer will establish at least a four-crossing quiet zone at Marina Bay. The Developer has offered \$250,000 for the quiet zone; and any money left over would go towards the overpass; the developer agrees to eliminate the Marina Bay exit unless it can be shown that it does not interfere with the grade separation project. The motion failed by the following vote: **Ayes:** Councilmembers Butt, Thurmond, and Vice Mayor Rogers. **Noes:** Councilmembers Griffin and McLaughlin. **Absent:** None. **Abstain:** Councilmembers Bates, Marquez, Viramontes, and Mayor Anderson. A motion was made by Councilmember McLaughlin, seconded by Councilmember Griffin, to concur with the decision of the Planning Commission. A substitute motion was made by Councilmember Bates, seconded by Councilmember Marquez, to adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, and concur with the recommended decision of the Planning Commission to deny the General Plan Amendment and Rezoning application to allow development of 208 town homes at 1689 Regatta Boulevard based on the Commission's findings as stated in Planning Commission Resolution 05-10. Discussion ensued and Bill Lindsay, City Manager, recommended the Council continue the discussion at the next City Council meeting, but keep the public hearing closed. Councilmember Bates withdrew his substitute motion and made a motion to adhere to the recommendation made by the City Manager. The motion was seconded by Councilmember Marquez. A substitute motion was made by Councilmember McLaughlin, seconded by Councilmember Griffin, to concur with the recommendation of the Planning Commission to deny the General Plan Amendment and Rezoning Application. The substitute motion failed by the following vote: **Ayes:** Councilmembers Butt, Griffin, McLaughlin, and Viramontes. **Noes:** Councilmembers Thurmond, Bates, Marquez, Rogers, and Mayor Anderson. **Abstain:** None. **Absent:** None. Further discussion ensued and Mayor Anderson, with the concurrence of the Council, continued the matter two weeks until October 18, 2005. A motion by Councilmember Marquez, seconded by Councilmember McLaughlin to extend the meeting until 1:00 a.m., passed by the following vote: **Ayes:** Councilmembers Thurmond, Bates, Marquez, Rogers, McLaughlin, Viramontes, and Mayor Anderson. **Noes:** Councilmembers Butt and Griffin. **Abstain:** None. **Absent:** None.

City Clerk announced this was the time set, pursuant to published notice to conduct a public hearing on proposed amendments to the Consolidated Action Plans Fiscal Years 2004/2005 and 2005/2006 Budgets for the following:

- a. Resolution authorizing an amendment to the 2004/2005 Consolidated Action Plan to assist in the development of affordable housing and street improvements.
- b. Resolution authorizing an amendment to the 2005/2006 Consolidated Action Plan to assist in the development of affordable housing and technical assistance to women-owned businesses.

Mayor Anderson declared the public hearing open. There were no comments from the audience. On motion of Councilmember Griffin, seconded by Councilmember Thurmond, the public hearing was closed by the unanimous vote of the Council. On motion of Councilmember Griffin, seconded by Councilmember Viramontes, adopted **Resolution Nos. 134-05 and 135-05**, respectively, by the unanimous vote of the Council.

AGREEMENTS

None.

RESOLUTIONS

A proposed resolution commending all employees for their willingness to assist the City of Richmond in its financial recovery and confirming that all employees are treated equally by extending to Unrepresented Management Employees the same benefits as those provided to Represented Employees. There were no questions from the audience. On motion of Councilmember Bates, seconded by Councilmember Thurmond, adopted **Resolution No. 136-05**, by the unanimous vote of the Council.

A proposed resolution authorizing the Public Works Department to allocate to the Easter Hill HOPE VI Project \$866,909 of the 1999 Sewer Bond Funds to replace the sewer lines at the Easter Hill Public Housing site and allocate \$95,000 of Gas Tax Funds for repaving of portions of 29th and 30th Streets at the project site was presented. Tim Jones, Housing Authority Executive Director, gave an overview of the matter. A motion was made by Councilmember Viramontes, seconded by Councilmember McLaughlin and **Resolution No. 137-05** was adopted regarding the sewer bond funds and the gas tax funds and **Resolution No. 138-05** was adopted **regarding** deferral of the permit fees, by the unanimous vote of the Council.

ORDINANCES

A proposed urgency ordinance first and second reading restricting ground-floor uses to certain retail uses in specified areas of Macdonald Avenue, 23rd Street, and the vicinity of Hilltop Mall was presented. Steve Duran, Community and Economic Development Director, gave an overview of the matter. Following discussion, a motion was made by Councilmember Bates, seconded by Councilmember Marquez, to adopt the urgency ordinance. The vote was as follows: **Ayes:**

Councilmembers Thurmond, Bates, Marquez, Griffin, Rogers, Viramontes, and Mayor Anderson. **Noes:** Councilmembers Butt and McLaughlin. **Abstain:** None. **Absent:** None (Councilmember Griffin left the meeting). Everett Jenkins, Interim City Attorney, informed the Council that in order for the urgency ordinance to pass it must have 4/5 votes (7 out of 9). A motion was made by Vice Mayor Rogers, seconded by Councilmember Marquez to receive first reading of said ordinance. The motion passed by the following vote: **Ayes:** Councilmembers Thurmond, Bates, Marquez, Rogers, Viramontes, and Mayor Anderson. **Noes:** Councilmembers Butt and McLaughlin. **Abstain:** None. **Absent:** Councilmember Griffin.

A proposed ordinance was introduced for first reading to amend Chapter 2.50 of the Richmond Municipal Code, extending the Business Opportunity Ordinance from October 2005 to April 30, 2006 was presented. There were no questions from the audience. On motion of Councilmember Viramontes, seconded by Vice Mayor Rogers, said ordinance received first reading and was laid over two weeks for second reading by the following vote: **Ayes:** Councilmembers Thurmond, Bates, Marquez, Rogers, McLaughlin, Viramontes, and Mayor Anderson. **Noes:** Councilmember Butt. **Abstain:** None. **Absent:** Councilmember Griffin.

A proposed ordinance was introduced for first reading to amend Chapter 2.56 of the Richmond Municipal Code, extending the Local Employment Ordinance from October 2005 through April 30, 2006, was presented. There were no questions from the audience. On motion of Councilmember Bates, seconded by Councilmember Thurmond, said ordinance received first reading and was laid over two weeks for second reading by the following vote: **Ayes:** Councilmembers Thurmond, Bates, Marquez, Rogers, McLaughlin, Viramontes, and Mayor Anderson. **Noes:** Councilmember Butt. **Abstain:** None. **Absent:** Councilmember Griffin.

COUNCIL AS A WHOLE

In the matter to consider authorizing the City Manager to direct the Engineering staff to complete installation of stop signs, crosswalks, and speed undulations on Chanslor Avenue at 8th Street (Councilmember Griffin returned to the meeting). Councilmember Marquez gave an overview of the matter. Rich Davidson, City Engineer, stated that the stop signs are the issue, and a traffic study will be conducted and should be concluded in November. Discussion ensued and a motion was made by Councilmember Marquez, seconded by Councilmember Viramontes, to authorize the City Manager to direct the Engineering staff to complete installation of stop signs, crosswalks, and speed undulations on Chanslor Avenue at 8th Street, by the unanimous vote of the Council.

In the matter to consider an amendment to the City Council's action on the Panattoni Parkway Commerce Project to include legal indemnification of the City of Richmond and the three conditions agreed upon between the developer and the two appellants was presented. Councilmember Bates gave an overview of the matter. He stated that it is important to indemnify the City and add the three conditions requested by the appellant. Everett Jenkins, Interim City Attorney, proposed that a

hearing take place on October 18, 2005, for resolution of the matter. Staff recommends the matter come back for Council consideration at its October 18, 2005, Council meeting.

In the matter of a discussion and recommendation of a proposed draft ordinance to require a Conditional Use Permit on major project developments/superstores was presented. Councilmember Viramontes gave an overview of the matter. The following individuals spoke on the matter: Elizabeth Hinkel and Miriam Montecin. Discussion ensued. Following discussion, on motion of Councilmember Viramontes, seconded by Councilmember McLaughlin, referred the matter to the Planning Commission by the following vote: **Ayes:** Councilmembers Butt, Thurmond, Marquez, Griffin, Rogers, McLaughlin, Viramontes, and Mayor Anderson. **Noes:** Councilmember Bates. **Abstain:** None. **Absent:** None. Mayor Anderson asked Councilmember McLaughlin to convene a Rules and Procedures Standing Committee meeting to recommend a procedure to the City Council regarding referral of matters to Boards and Commissions (Councilmember Bates left the meeting).

In the matter of a summary of the review process for Chevron Maintenance and Modernization Projects was presented. Richard Mitchell, Interim Planning Director, gave an overview of the matter. The following individuals spoke on the matter: Richard Drury and Corky Booze. Discussion ensued. A motion was made by Councilmember Viramontes, seconded by Councilmember McLaughlin, to authorize the City Manager to submit a report detailing development of a public records policy and/or appoint a dedicated staff person to be responsible for public documents.

In the matter of a discussion and approval of a resolution for guidelines for staff response to public information requests and possible revisions of the Richmond Municipal Code Section 2.40.070. The City Council directed the City Manager and the City Attorney to develop a process and report to the City Council in 31 days. On motion of Councilmember Viramontes, seconded by Councilmember McLaughlin the Council extended the meeting ten minutes.

Withdrew the matter to consider free access to community centers for neighborhood council meetings.

In the matter to consider appointments to Standing Committees, Mayor Anderson appointed Councilmember Thurmond to the Finance, Administrative Services, and Economic Development Standing Committee and the Rules and Procedures Standing Committee; and as liaison to the Youth Commission. Councilmember Butt will convene a meeting of the Finance Standing Committee, and Councilmember McLaughlin will convene the Rules and Procedures Standing Committee.

COMMUNICATIONS

None.

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

Reports of Chairpersons of:

There were no reports of Chairpersons of Finance, Public Safety, Rules and Procedures, or Mayor's report.

General Reports from Councilmembers and staff

None.

Referrals to staff from the City Council

None.

ADJOURNMENT

There being no further business, adjourned the meeting at 1:09 a.m., in memory of Peggy Banks, mother of Interim Fire Chief Michael Banks, to meet again in two weeks on Tuesday, October 18, 2005, at 7:00 p.m.

City Clerk

(SEAL)

Approved:

Mayor