

RICHMOND, CALIFORNIA, October 18, 2005

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

ROLL CALL

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

COUNCILMEMBERS CODE OF CONDUCT

The Acting City Clerk read the Councilmembers' Code of Conduct.

APPROVAL OF MINUTES

None.

STATEMENT OF CONFLICT OF INTEREST

None.

AGENDA REVIEW

Removed Item I-2 and I-5 from the Consent Calendar.

Withdrew Item I-3 from agenda, to be heard on November 1, 2005.

Added Item N-2 to consider appointments to standing committees.

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

Public Employee Performance Evaluation

City Clerk: Discussion, but no action.

Selection of an Internal Auditor: Update, but no action.

Conference with Legal Counsel: Existing Litigation

Baykeeper vs. City of Richmond: Update, but no action taken.

Conference with Legal Counsel: Potential Litigation

One case, report given, but no action taken.

OPEN FORUM FOR PUBLIC COMMENT

Emma Moore stated that she enjoyed the "Richmond Rises Above the Violence Conference." Would like to see the Library open longer hours.

Roberto Torres, Senior at Richmond High and Chairman of the Youth Commission, stated that he gained much knowledge from the "Richmond Rises Above the Violence

Conference” that will allow him to assist the citizens of Richmond better.

Kyle Bratton thanked the Mayor and the Council for conducting the “Richmond Rises Above the Violence Conference.”

Amanda Wyatt thanked the Mayor for convening the “Richmond Rises Above the Violence Conference” that helped get the youth involved.

Gregory Wyatt who was a co-facilitator for the “Richmond Rises Above the Violence Conference” said the attendees learned options on how to help the community to try and curb the violence.

Victoria Sawicki, President of the Board of Atchison Village, commented that there was a shooting on West Macdonald involving a resident and her child who were in their van in front of their house and their vehicle was shot at numerous times. They were not hurt. The City needs more youth centers and youth activities/sports.

Naomi Williams commented that the “Richmond Rises Above the Violence Conference was a great event. The youth ran the event and told adults what they needed to know. Also, residents of her neighborhood received a letter that voting would take place at King School. Then another notification was sent that the polling place was changed to Bethlehem Missionary Baptist Church. Ms. Williams is informing residents that they may also vote at Stege or Easter Hill as a provisionary vote.

Irwin Friedman commented that the proposed Anchorage at Marina Bay Project should not be built on the site due to the high level of danger and pollution.

Richard Lompa urged the council to not support the closure of West Cutting Boulevard and Richmond Avenue.

Walter Connolly spoke against the closure of Cutting Boulevard.

Jackie Thompson, member of Mothers Against Senseless Killing (M.A.S.K), invited everyone to a “Peace and Healing Walk” beginning on 49th Street and Cutting Boulevard and ending at Harbour Way and Cutting on October 29, 2005. Ms. Thompson asked that a room be reserved for the group at the Martin Luther King Community Center for that evening.

Frank Reyes spoke about the damaged condition of some of the streets in Atchison Village and urged that they be paved.

Corky Booze gave comments regarding the Richmond Police Officers accused of taking refreshments from a Richmond Hilltop Mall vendor. He asked if the youth who attended the Violence Conference were promised to be paid \$10.

Marni Temple, resident of Atchison Village, spoke about the increased amount of violence in her neighborhood and

the inefficiency of the street sweeping program due to all of the parked cars.

Frank Campbell, Atchison Village Crime Watch Chairperson, asked for help with their action plan. They would like to have a substation in the neighborhood.

Cochise Potts spoke against having a Mayor on a rotational basis.

Karen Fenton made an invitation to the ribbon cutting ceremony at Peres Elementary School on Thursday, October 20th at 5:30 p.m. and urged the Council to support the West Contra Costa Unified School District's ballot measure.

Lynette Gibson McElhaney, Executive Director of Richmond Neighborhood Housing Services, spoke about the importance of respect in the process of conducting City Council meetings in order to be able to make good decisions for the improvement of the City as a whole.

Debbi Landshoff commented that she was not able to obtain a copy of the agenda. The Library didn't have the packet and then went to City Hall and from outside was not able to read the information. Suggested that display cases be placed somewhere with the agendas enclosed so citizens can have access to them.

Cecilia Valdez, Interim President of the Latino/Latina Democratic Club of West Contra Costa County, gave comments about the Latino Special Election Summit Conference on Saturday, October 22, 2005, from 4-6 p.m. at St. Mark's Church Gymnasium.

Rolando Torres commented on the amount of crime and violence around Macdonald Avenue and 4th Street and urged the Council to do something to clean the area up.

PRESENTATIONS, PROCLAMATIONS, AND COMMENDATIONS

The proclamation declaring October 2005 as "National Arts and Humanities" was not available and was not presented.

CONSENT CALENDAR

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

*- Approved amending an existing contract with LSA Associates, Inc., to revise the scope of work for the Point Richmond Shores Environmental Impact Report. Total amount of the contract amendment is \$78,482, increasing the total amount of the contract from \$200,000 to an amount not to exceed \$278,482.

A proposed contract award to Bay Cities Paving & Grading, Inc., for the Carlson Boulevard Improvements from Bayview Avenue to Tehama Avenue was presented. Total amount of the contract will not exceed \$733,082.75. Rich Davidson, City Engineer gave an overview of the matter. The

following individual spoke on the matter: Corky Booze. Following discussion, on motion of Councilmember Bates, seconded by Councilmember Griffin, approved the contract by the unanimous vote of the Council.

*-Approved **Resolution No. 139-05** authorizing execution of leases with the YMCA of the East Bay for properties located at 1350 Kelsey, 360 Harbour Way South, and 445 – 8th Street for the provision of childcare services.

A proposed resolution amending the City of Richmond's Deferred Compensation Plan to provide for a Plan Administrator, restructuring the Deferred Compensation Advisory Committee to expand its membership, and creating a Deferred Compensation Emergency Withdrawal Committee was presented. Councilmember Viramontes asked how much money is involved in the Deferred Compensation Program and what the role of the advisory committee is, and who makes the investment decisions. Jim Goins, Finance Director replied that it is \$30 million, shared by three plan sponsors: ING, Hartford, and CALPERS. The advisory committee consists of all union organizations and Finance staff, who give direction to various vendors as to how best to administer the program. Councilmember Bates stated that the Councilmembers should consider having a representative on the advisory committee. On motion of Councilmember Viramontes, seconded by Councilmember McLaughlin approved **Resolution No. 140-05** by the unanimous vote of the Council.

*-Adopted **Resolution No. 141-05** authorizing an Encroachment Agreement with Steven G. and Karen J. Kittle to encroach onto the Stairley Street Right-of-Way to construct two retaining walls to support a downhill driveway for access to a new home in the Point Richmond area.

*-Adopted Resolution removing designated parking spaces for the disabled in front of the following dwellings: 2501 Gaynor Avenue - **Resolution No. 142-05** and 320 – 40th Street - **Resolution 143-05**.

*-Adopted **Ordinance No. 42-05** restricting ground-floor uses to certain retail uses in specified areas of Macdonald Avenue, 23rd Street, and the vicinity of Hilltop Mall. *(Councilmember McLaughlin was recorded as voting noe).*

*-Adopted **Ordinance No. 43-05** amending Chapter 2.50 of the Richmond Municipal Code, extending the Business Opportunity Ordinance from October 2005 to April 30, 2006. *(Councilmember Butt was recorded as voting noe).*

*-Adopted **Ordinance No. 44-05** amending Chapter 2.56 of the Richmond Municipal Code, extending the Local Employment Ordinance from October 2005 through April 30, 2006. *(Councilmember Butt was recorded as voting noe).*

PUBLIC HEARINGS

Acting City Clerk announced this was the time set, pursuant to published notice to conduct a public hearing on appeals by Jay Fenton and Cochise Potts to the Parkway Commerce Center Project to consider the certification of the

proposed Environmental Impact Report with Errata and the subdivision of two parcels into 11 individual lots to create a light industrial business park on Collins Avenue near John Avenue. Richard Mitchell, Interim Planning Manager, gave an overview of the matter. Mayor Anderson declared the public hearing open. Jay Fenton stated that he supports the project, but he has problems with the unmitigated and unresolved traffic crossings. The traffic analysis in the EIR did not recognize the impacts of heavy truck traffic. There have been cost estimates that John Avenue can be widened for \$750,000 and a new Central crossing cost estimate is \$2.5 million. Cochise Potts stated that he is in support of the resolution as it is today as long as there are no negative impacts on Parchester Village. The following persons spoke on the matter: Dale Peterson, Rick Jarvis, John Troughton, Margaret Judkins, Karen Fenton, James Moose, Ethel Dotson, Corky Booze, Whitney Dotson, Sims Thompson, and Debbi Landshoff. Jim Jeary, Pannitone Development, stated that this project will restore Rheem Creek by planting the entire southside, there will be opportunities for small companies to by retail space, and job creation. Following discussion on motion of Councilmember Bates, seconded by Councilmember Marquez, closed the public hearing by the unanimous vote of the Council. Councilmember Bates stated he does not support approval of this item because it is not clear what the City's share for the grade improvements will be. City Manager Bill Lindsay replied that the City Engineer, in conjunction with the railroad, determined that the construction costs for the John Avenue Crossing is \$750,000 and the Central crossing is \$2.5 million. Councilmember Butt stated that he will not support approval of the resolution until the developer agrees to pay \$1 million toward a solution to the rail crossing issues. A motion was made by Councilmember Viramontes, seconded by Councilmember Rogers to certify the EIR, approve the findings as described in the staff report and revised findings and mitigation, the findings of fact, reject the appeal of the certification of the Planning Commission of the EIR, include the draft and final EIR, accept meeting the conditions under the California Environmental Quality Act, and accept the tentative map subdivision number 8639 for the site known as Parkway Commerce Center. Councilmember Butt, seconded by Councilmember Marquez, made a substitute motion to add the condition that the \$250,000 figure be changed to \$1 million for improvement costs. Councilmember Bates made a friendly amendment that the cost of the crossing be paid by the developer and the tenants up to a cost of \$1 million. Councilmember Marquez withdrew his second. On motion of Councilmember Viramontes, seconded by Vice Mayor Rogers, reopened the public hearing to discuss the \$1 million issue only by the following vote: **Ayes:** Councilmembers Bates, Griffin, Thurmond, Viramontes and Mayor Anderson. **Noes:** Councilmember Butt, Marquez, McLaughlin, and Rogers. **Abstentions:** None. **Absent:** None. Jim Jeary stated that the cost study for the improvements was well thought out in discussions with all the entities involved. In addition, the EIR is adequate and does address the train crossing issues. There are no significant impacts on John and Collins Avenues, but the study indicates significant traffic impacts on northbound Giant Highway and there is a mitigation measure to resolve this, and believes \$250,000 will solve the problem. Furthermore, if the cost for the improvements is \$1 million there probably will not be a project. Mr. Jeary agreed to pay half of the cost for the John Avenue crossing, but could not pay for half the cost of the

Central crossing. The following persons spoke on the matter: Corky Booze, Ethel Dotson, Whitney Dotson, Margaret Judkins, Karen Fenton, Sims Thompson, Cochise Potts, and Debbie Landshoff. On motion of Councilmember Viramontes, seconded by Councilmember Thurmond closed the public hearing by the unanimous vote of the Council. Everett Jenkins, Interim City Attorney, suggested that the Council recess to closed session before a decision is made. On motion of Councilmember Viramontes, seconded by Councilmember Marquez recessed to closed session by the unanimous vote of the Council. On motion of Councilmember McLaughlin, seconded by Councilmember Butt to deny the certification of the EIR by the following vote: **Ayes:** Councilmember Butt and McLaughlin. **Noes:** Councilmembers Bates, Griffin, Marquez, Rogers, Thurmond, Viramontes, and Mayor Anderson. **Abstentions:** None. **Absent:** None. On motion of Councilmember Bates, seconded by Councilmember Thurmond, reopened the public hearing for a maximum of five minutes by the unanimous vote of the Council. Jim Jeary stated that he is in agreement of amending the resolution to increase the amount previously agreed upon of \$250,000 but not to exceed \$250,000 for either the John crossing or a new Central crossing. On motion of Councilmember Bates seconded by Councilmember Marquez closed the public hearing by the unanimous vote of the Council. A substitute motion was made by Councilmember Viramontes, seconded by Councilmember Bates, to accept the certification of the EIR, all 32 pages of fact finding and mitigation measures listed on the revised fact finding sheet and with the new amendment that Pannitone will pay \$500,000 for purposes of transportation mitigation for John Avenue and the Central crossing. Councilmember Bates made a friendly amendment that Pannitone indemnify the City of any legal action passed and adopted **Resolution No. 144-05** was adopted by the following vote: **Ayes:** Councilmember Bates, Griffin, Marquez, Rogers, Thurmond, Viramontes, and Mayor Anderson. **Noes:** Councilmember Butt and McLaughlin. **Abstentions:** None. **Absent:** None.

(The following item was taken out of order):

ORDINANCES

Introduced for First Reading for a proposed ordinance amending Chapter 3.59 of the Richmond Municipal Code to decrease the number of members on the Arts and Culture Commission from 15 to 11. The following individuals spoke on the matter: Corky Booze and Kate Sibley. On motion of Councilmember Viramontes, seconded by Councilmember Marquez, said ordinance received first reading and was laid over for two weeks for second reading.

(Public Hearing items resumed)

City Clerk announced this was the time set, pursuant to published notice to conduct a public hearing on an appeal by Pulte Homes Corporation of the Planning Commission's denial of the proposed Anchorage at Marina Bay Tentative Map, Conditional Use Permit, 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). Richard Mitchell, Planning Director, gave an overview of the matter. On motion of Councilmember Bates,

seconded by Councilmember Marquez opened the public hearing for five minutes by the unanimous vote of the Council. The developer stated he was in agreement with the conditions of approval as written in the staff report and stated by Richard Mitchell. On motion of Councilmember Bates, seconded by Councilmember Marquez closed the public hearing by the unanimous vote of the Council. On motion of Councilmember Bates seconded by Councilmember Marquez, approved the recommended actions and adopted **Resolution No. 145-05** as stated by the Planning Director and approve the Mitigated Negative Declaration. And that the City be indemnified in case of legal action and reverse the Planning Commission's recommendation to deny the requested General Plan amendment and rezoning application to allow development of the 208 townhomes passed and adopted **Resolution No. 146-05** by the following vote: **Ayes:** Councilmember Bates, Butt, Griffin, Marquez, Rogers, Thurmond, and Mayor Anderson. **Noes:** Councilmembers McLaughlin and Viramontes. **Abstentions:** None. **Absent:** None. Councilmember McLaughlin made a substitute motion to deny the Mitigated Negative Declaration and concur with the Planning Commission's recommendation to deny the development. The motion died for lack of a second.

Acting City Clerk announced this was the time set, pursuant to published notice, to conduct a public hearing on an appeal by Rod Satre and Bonita Satre Daley from the Design Review Board's modification of a condition of approval to construct a 1,432 SF two-story addition to an existing 616 SF single-family residence located at 636 Golden Gate Avenue. (**Staff Recommendation: Continue the public hearing to November 1, 2005**). Richard Mitchell gave an overview of the matter. Councilmember Bates asked who owns and is responsible for the easements in the City. Rich Davidson, City Engineer, replied that easements are setup running through private property if the sewer line is owed by the City. If it is a sewer lateral not maintained by the City then the easement is set up between the two property owners and the City is not involved. Fred Clement, Building Official, stated that there was no recorded easement for this lateral. Councilmember Viramontes asked if there was an eight foot non-buildable easement or not. Mr. Clement replied that the map that was reviewed there was not an easement, but an eight-foot extension of one parcel. Rod Satre, appellant, stated that the proposed project would be built directly on top of his sewer line. California Plumbing Code 2001 No. 313.4 states: "No building or sewer or no other drainage piping or part thereof constructed materials other than those approved for use under or within a building shall be installed within two feet of any building or structure or less than one foot below the surface of the ground." Furthermore, the applicant, Mr. McMullen, is attempting to get him to put a new sewer line in because he did not want to put a new line that only needed to be changed because he is planning on building on top of it. Mr. McMullen stated that the sewer line was repaired and rerouted along the fence line and the anticipated addition will not be near the sewer lateral. The lateral was rerouted to Golden Gate Avenue due to its poor condition where it was before. The new lateral runs out in another direction. Bonnie Satre stated that Mr. McMullen disconnected his line without notifying them and then two months later, their line was broken. Furthermore, the City approved a rerouting that is considered bad plumbing practice

according to the California Plumbing Code and wants the City to know that if there is another problem with this line it should be considered the City's problem. On motion of Councilmember Bates, seconded by Councilmember Marquez, closed the public hearing by the unanimous vote of the Council. On motion of Councilmember Viramontes, seconded by Councilmember Marquez denied the appeal on the basis that the appeal was legally filed on the issue of the eight foot nonbuildable easement, which has been verified by staff that it does not exist, and the decision by Mr. McMullen to move a lateral that three properties shared is a private problem between the two landowners, and adopted **Resolution No. 147-05** by the unanimous vote of the Council.

AGREEMENTS

A proposed amendment to an existing contract with Victor Ochoa to extend the time period and increase compensation to provide legal services in the City Attorney's Office was presented. The amended contract period will be October 31, 2005, through January 31, 2006. The contract amount will be increased by \$25,000 for a new total of \$59,999. Dwayne Chapman spoke on the matter. On motion of Councilmember Marquez, seconded by Councilmember Viramontes, approved the contract amendment, by the unanimous vote of the Council.

RESOLUTIONS

Proposed resolutions opposing propositions on the November 8, 2005, Special Statewide Election were presented. On motion of Councilmember Griffin, seconded by Councilmember Marquez adopted the following resolutions by the unanimous vote of the Council:

Resolution No. 148-05 opposing Proposition 74 that will increase the probationary period for public school teachers from two years to five years and redefines unsatisfactory performance.

Resolution No. 149-05 opposing Proposition 75 that will prohibit public employee labor organizations from using public employee dues or fees for political contributions except with prior consent from individual union members each year.

Resolution No. 150-05 opposing Proposition 76 that will limit state spending to the prior year's level plus the three previous years' average revenue growth; changes minimum school funding requirements, eliminates repayment requirement when minimum funding is suspended; directs excess General Fund revenue currently directed to schools/tax relief to budget reserve, specified construction, debt repayment; allows the Governor to reduce appropriations to employee compensation/state contracts; continues prior year appropriations if state budget is delayed; prohibits state special funds borrowing; and requires payment of local government mandates.

COUNCIL AS A WHOLE

On motion of Councilmember Rogers, seconded by Councilmember Viramontes approved the following recommended appointments by Mayor Anderson to regional committees: Councilmember Butt appointed to WCCTAC, appointed Councilmember Viramontes the designee for West County Agency; appointed Councilmember Thurmond to the Rules and Procedures Committee and appointed Councilmember Viramontes liaison to the Economic Development Commission.

COMMUNICATIONS

None.

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

There was no report from the Chairperson of the Finance Standing Committee.

Councilmember Marquez reported that the next Public Safety Standing Committee will be on Thursday, October 20, 2005 at 10:30 a.m.

Councilmember McLaughlin reported that the next Rules and Procedures Standing Committee will be on Wednesday, October 26, 2005 at 8:30 a.m.

Mayor Anderson thanked staff and the community involved that help to have a successful “Richmond Rises Above the Violence” conference. Also, on November 12, 2005, from 2-5 p.m. at the Richmond Convention foyer there will be a memorial service celebrating Lucretia Edward’s life.

There were no General Reports from Councilmembers and staff.

Councilmember Griffin asked for an update on the current status of ticketing vehicles on street sweeping days. City Manager, Bill Lindsay replied that he will provide a written report to the Council.

ADJOURNMENT

There being no further business, adjourned the meeting in memory of Lucretia Edwards, at 11:57 p.m., to meet again on Tuesday, November 1, 2005, at 7:00 p.m.

City Clerk

(SEAL)

Approved:

Mayor