

RICHMOND, CALIFORNIA, February 6, 2007

The Morning Open Session was called to order at 8:44 a.m. by Mayor Gayle McLaughlin.

ROLL CALL

Present: Councilmembers Butt, Lopez, Marquez, Sandhu, Rogers, Viramontes, Vice Mayor Bates and Mayor McLaughlin. **Absent:** Councilmember Thurmond.

PUBLIC COMMENT

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

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Subdivision [a] of Government Code Section 54956.9)

Tanzel vs. City of Richmond; Toll Bros. vs. City of Richmond; CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION Significant exposure to litigation pursuant to Subdivision (b) of Government Code Section 54956.9: **One Case:**

CONFERENCE WITH LABOR NEGOTIATORS (Government Code Section 54957.6): City Designated Representatives: Bill Lindsay and Leslie Knight Employee organization(s) or unrepresented management employees: Unrepresented Management employees

The Open Session adjourned to Closed Session at 8:45 a.m. The Closed Session adjourned at 12:09 p.m. and the Morning Open Session adjourned at 12:09 p.m.

Clerk of the City of Richmond

(SEAL)

Approved:

Mayor

MorningOpenSessionFebruary 062007.minutes

RICHMOND, CALIFORNIA, February 6, 2007

The Regular Meeting of the Richmond City Council was called to order at 7:32 p.m., by Mayor Gayle McLaughlin.

ROLL CALL

Present: Councilmembers Butt, Lopez, Marquez, Rogers, Sandhu, Thurmond, and Mayor McLaughlin. **Absent:** Councilmembers Viramontes and Vice Mayor Bates.

STATEMENT OF CONFLICT OF INTEREST

None.

AGENDA REVIEW

Items G-3 and G-10 were removed from the Consent Calendar. Item G-2 was continued to the City Council meeting of February 20, 2007. Councilmember Rogers requested that an emergency item regarding the Maritime Center be added to the agenda. Mayor McLaughlin stated that Item K-5 would be moved and heard before Open Forum and Item I-1 would be heard right before the Consent Calendar. The Maritime Center item will be heard after Open Forum. *(Councilmember Viramontes and Vice Mayor Bates joined the meeting).*

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

John Eastman, City Attorney, made the following report:

(Councilmembers Lopez and Viramontes were not present during Item CC A-3 and Councilmember Thurmond was not present during the closed session).

CC A-1. CONFERENCE WITH LEGAL COUNSEL EXISTING LITIGATION (Subdivision [a] of Government Code Section 54956.9) **Tanzel vs. City of Richmond:** Confidential direction was given to legal counsel. **Coalition of Concerned Citizens vs. City of Richmond:** Confidential direction was given to legal counsel.

CC A-2. CONFERENCE WITH LEGAL COUNSEL ANTICIPATED LITIGATION Significant exposure to litigation pursuant to Subdivision (b) of Government Code Section 54956.9: **One Case:** A confidential briefing was held.

CC A-3. CONFERENCE WITH LABOR NEGOTIATORS (Government Code Section 54957.6): City Designated Representatives: Bill Lindsay and Leslie Knight. **Employee organization(s) or unrepresented management employees: Unrepresented Management employees:** A confidential briefing was provided to the City Council.

In the matter to approve reappointments to the **Arts & Culture Commission**: Kathryn Sibley; **Parks & Recreation Commission**: Lones Stern-Banks; **Housing Advisory Commission**: Anntheia Yvonne Harrison-Farr; and appointments to the **Human Relations Commission**: Marilyn Langlois and Jesse Montiel; **Arts & Culture Commission**: Fred Jackson;

Planning Commission: James Jenkins and Michael Esposito;
Park & Recreation Commission: Kathy Robinson and Diego Garcia; **Personnel Board:** Kim Stewart; **Economic Development Commission:** Michele McGeoy and Jovanka Beckles; **Richmond Police Commission:** Rob Ham and Nemy Bautista; **Richmond Shimada Friendship Commission:** Steven Pinto; and **Richmond Youth Commission:** Michelle Chenault. A motion was made by Councilmember Viramontes, seconded by Councilmember Marquez made a motion to holdover the appointments to the Planning Commission due to the possibility of the merge of the Design Review Board with the Planning Commission that the Council approved two years ago, and she also suggested that the Police Commission appointments be heldover until the policy regarding conducting background checks is established. Mayor McLaughlin stated that the City's current ordinances are that the Planning Commission and Design Review Board are separate boards and the ordinances established should be complied with. A substitute motion was made by Councilmember Butt, seconded by Councilmember Thurmond, to approve all of the recommended appointments. Mayor McLaughlin stated that the issue of the possible merge of the Planning Commission and Design Review Board was discussed, but not formally voted on for approval. Councilmember Butt withdrew his substitute motion. A substitute motion was made by Councilmember Bates, seconded by Councilmember Thurmond to approve the appointments and reappointments, excluding those for the Planning Commission and Police Commission, and vote separately for the appointments to the Planning Commission and Police Commission, passed by the unanimous vote of the Council. On motion of Councilmember Butt, seconded by Councilmember Thurmond, to approve the appointments to the Planning Commission and Police Commission, failed by the following vote: **Ayes:** Councilmembers Butt, Thurmond Mayor McLaughlin. **Noes:** None. **Abstentions:** Councilmembers Bates, Lopez, Marquez, Rogers, Sandhu, and Viramontes. **Absent:** None.

RESOLUTIONS

In the matter to adopt a resolution reaffirming Richmond City Council's support for comprehensive immigration reform that is fair, just and humane was presented. Mayor McLaughlin stated the immigrants contribute \$25 to \$30 billion more in taxes than they receive in services. There was a crackdown of workers in agricultural jobs in 2004 in the Western U.S., which led to a \$1 billion loss for the industry. Councilmember Lopez read the resolution both in English and Spanish. The following individuals spoke in support of adoption of the resolution: Linda Salinas, Father Ramiro Flores, Rev. Filiberto Barrera, Andres Soto, Diego Garcia, Arturo Rodriguez, Rosa Chavez, Socorro Cardenas, Fernando Diaz, Juan Cardona, Barbara Becnel, and Leonard McNeil. Discussion ensued. On motion of Mayor McLaughlin, seconded by Vice Mayor Bates, adopted **Resolution No. 11-07**, by the unanimous vote of the Council. (*Councilmember Butt left the meeting at 9:00 p.m.*). Police Chief Magnus stated that the Richmond Police Department is committed to building the best relationship possible with the community, regardless of citizenship status, race, ethnicity or background and is not part of any of the activities involving immigration enforcement. Mayor McLaughlin announced that there will be a press conference regarding this resolution and immigration issues on February 6, 2007, at 12:30 p.m. at the

Richmond Main Library Community Room, 325 Civic Center Plaza.

(The Council recessed from 9:02 to 9:13 p.m.)

OPEN FORUM FOR PUBLIC COMMENT

Corky Booze thanked all those persons who called to support him while he was in Kaiser Hospital having an operation. Mr. Booze asked the community to support Mayor McLaughlin in following the democratic process and thanked the Council for adopting the immigration resolution, but asked that it also be translated in all the other languages spoken by persons who live in our community.

Marilyn Langlois, member of the Richmond Haiti Committee and Richmond Greens, expressed her solidarity with the people of Haiti who are suffering from oppression.

Sister Stella Goodpastor, member of the Richmond Haiti Committee, gave comments about the occupation of Haiti.

Yves Voltaire gave comments regarding the more recent increase in violence experienced in Haiti, which has not allowed him to visit his country this year.

Fred Jackson gave comments regarding the issues affecting Haiti and asked that the Richmond community become involved in assisting the Haitian community.

Tarnell Abbott spoke about having solidarity with the people of Haiti and the brutal foreign occupation of military troops.

Juan Reardon gave comments about the oppression of the Haitian people and gave the following e-mail where people can help: www.haitiaction.net

Jackie Thompson suggested that when a large number of persons are expected to attend a Council meeting, that another location be used. She stated that the large number of people in attendance tonight could have created a fire hazard. Ms. Thompson asked if there is a process to ensure the how the community that their concerns are being addressed. Ms. Thompson expressed concern about a large hole on the sidewalk at 23rd and Garvin.

Kathy Robinson gave comments about persons selling food and other items throughout the City without the proper permits. She stated that the sellers must be forced to obtain health permits, peddler's licenses, etc.

Andres Soto suggested that public service announcements be made in various languages so that the community is aware of how to deal with organizations such as immigration enforcement.

EMERGENCY ITEM

Councilmember Rogers stated that there is a February 15, 2007, deadline placed by CCHE, which is a historic preservation funding source, who gave the City of Richmond a \$2 million grant to rehabilitate the Maritime Center.

Councilmember Rogers was not made aware of this until Thursday, which was well past the deadline to place items on tonight's agenda. On motion of Councilmember Rogers, seconded by Councilmember Viramontes placed this matter on the City Council agenda as an emergency item by the unanimous vote of the Council. Councilmember Rogers stated the Maritime Center has historical significance because it was the location where childcare services were provided. It is a historic building located on the Nystrom School campus. Councilmember Rogers stated he was not suggesting that the City spend \$500,000 at this time to save the Maritime Center. The following persons gave comments in favor of preserving the Maritime Center: Allison Brooks, Lucy Lawless, and Christina Slamon. Discussion ensued. On motion of Councilmember Rogers, seconded by Councilmember Thurmond, the City Council directed the City Manager to send a letter requesting CCHC to postpone the February 15th deadline, and if the West Contra Costa Unified School District is able to put together the deal to save the building, the City will open up the fields at the park for school district recreational use and the City will open up the building it has for use of the charter school. Councilmember Viramontes added that staff follow up on the matter at the school board meeting and decide what subsequent actions will need to be made. Councilmember Thurmond made a substitute motion that the City commit \$500,000 necessary to secure the matching funds and authorize the City's grant writer to take the lead in fundraising for the preservation of the Maritime and direct staff to pursue a Joint Powers Agreement between the City of Richmond and the West Contra Costa Unified School District to provide joint recreation and other activities for the community. There was no second to the substitute motion. The original motion passed by the unanimous vote of the Council.

CONSENT CALENDAR

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

* - Approved a Purchase of Services Contract with Insight Environmental Engineering & Construction, Inc. to prepare construction design documents for a segment of the Bay Trail located in the Point Potrero Marine Terminal in an amount not to exceed \$148,000

A proposed ordinance rezoning to Planned Area (PA) Development the site known as "Terminal One" for the Point Richmond Shores Residential Condominium Development Project was continued to the City Council meeting of February 20, 2007.

A proposed resolution to transfer cash from the General Fund to eliminate negative cash balances in other funds was presented by Finance Director James Goins who stated that this transfer is necessary in order to clear audit exceptions from Fiscal Years 2004/2005 and be able to go to rating agencies for the Civic Center bond financing. (*Councilmember Marquez left the meeting at 10:15 p.m.*) Councilmember Lopez asked that the resolution state that this is a "one-time transfer" of funds. On motion of Councilmember Viramontes, seconded by Councilmember Rogers to adopt **Resolution No. 12-07**, by the unanimous vote of the Council.

* - Approved a contract amendment for \$82,980 with Applied Analytix for the purchase of Xcelcius Dashboard Software and system design support.

* - Adopted **Resolution No. 13-07**, authorizing the acceptance of funds from Contra Costa County Health in support of the Hazardous Materials Program.

* - Adopted **Resolution No. 14-07**, authorizing the acceptance of allocated funds from Contra Costa County Emergency Medical Services Division, under the Measure H Program.

* - Adopted **Resolution No. 15-07**, authorizing the City Engineer to submit a grant application for the Rubberized Asphalt Concrete Use Grant Program.

* - Authorized the City Engineer to call for construction bids for the repair of miscellaneous concrete improvements in Fiscal Year 2007/08 and 2008/09.

* - Approved a contract with the law firm of Walter & Pistole to serve as counsel to perform legal services previously handled by Victor Ochoa and such other matters as may be assigned by the city attorney. This contract is for \$50,000 and will begin February 1, 2007, and continue through June 30, 2007.

A proposed contract with the law firm of Barg Coffin Lewis & Trapp for the provision of legal services in defense of the CEQA lawsuit entitled Coalition of Concerned Citizens of Point Richmond vs. City of Richmond. The contract amount is \$50,000 and will run through the disposition of the lawsuit was presented. Councilmember Rogers stated he is not in favor of hiring attorneys to fight this matter, but rather bring both parties together to talk about their issues. On motion of Councilmember Marquez, seconded by Councilmember Viramontes approved the contract by the following vote: **Ayes:** Councilmembers Lopez, Marquez, Rogers, Sandhu, Thurmond, and Vice Mayor Bates. **Noes:** Councilmember Rogers and Mayor McLaughlin. **Abstentions:** None. **Absent:** Councilmember Butt.

* - Approved a contract with the law firm of Orrick Herrington & Sutcliffe, LLP, in the amount of \$20,000 for the provision of legal services on an as-needed basis at the request of the City Manager or City Attorney.

* - Approved the minutes of the Morning and Evening Open Session held on January 23, 2007.

ORDINANCES

A proposed ordinance amending the Human Relations and Affirmative Action Commission (HRAAC) Ordinance, Chapter 3.58 of the Richmond Municipal Code was presented. On motion of Councilmember Marquez, seconded by Councilmember Sandhu, said ordinance received first reading, and was laid over two weeks for second reading, by the unanimous vote of the Council.

A proposed ordinance amending the Richmond Municipal Code Section 9.52.040 to include train bells, sirens, horns, whistles, and similar audible warning devices as permissible

exceptions to the Community Noise Ordinance (CNO) only to the extent that use of such devices is permitted under state and federal law was presented by Carlos Privat, City Attorney's Office. Mr. Privat stated that train horns are specifically exempted from the Community Noise Ordinance and in this proposed amendment would include sirens, bells, whistles, and any other similar audible devices, which would make the ordinance conform to State law. The issue of liability if someone is injured by a train that perhaps did not signal its horn is not the issue before the Council. The City of Richmond has established three quiet zones and plans to establish others. The proposed amendment adds train bells, sirens, whistles and similar audible warning devices (horns are currently excepted) as permissible exceptions to the provisions of the CNO, clarifies audible warning devices, only to the extent Federal or State law permits or requires their use, and provides that such use is strictly limited to Federal or State sounding standards. Tanya Boyce and John Cockle, Richmond Pacific Railroad, gave comments. Mr. Cockle spoke in support of the proposed amendment to the ordinance. Federal law requires train companies to blow train whistles in an emergency and when the engineer fears that for safety reasons it is necessary. The manner in which this ordinance can be enforced is by someone obtaining the name of the railroad company on the train, train number, and date and time that the excessive horn blowing took place. On motion of Councilmember Viramontes, seconded by Councilmember Lopez said ordinance received first reading and was laid over two weeks for second reading, by the following vote: **Ayes:** Councilmembers Lopez, Marquez, Rogers, Sandhu, Viramontes, Vice Mayor Bates and Mayor McLaughlin. **Noes:** None. **Abstentions:** None. **Absent:** Councilmembers Butt and Thurmond.

COUNCIL AS WHOLE

In the matter to discuss and provide direction to staff regarding the feasibility of increasing access to public restrooms in City parks and/or public buildings and the option to provide such access. Three possible options include: (1) adequate funding to rebuild, maintain, patrol and open/close restrooms; (2) demolish select restrooms and use portable toilets; (3) no facilities was presented. Tony Norris, Parks Superintendent stated that staff has identified seven parks that need new restrooms and four existing restrooms that need to be renovated. Depending on the type of construction, demolition and construction related costs could range from \$721,300 to \$1,825,000 while structure renovation costs could range from \$240,000 to \$400,000. No funding currently exists in the five-year CIP plan to design, reconstruct or rehabilitate park restrooms. Currently, the Parks Division's contracted budget for fixed park restroom maintenance is \$9,720 annually which provides a service level of three days a week for the Vincent, Shimada, and Lucretia Edwards park restrooms. The Redevelopment Agency contracts with DP Security at an annual cost of \$114,830 for the security services at the Marina which includes opening and closing the restrooms daily. The Parks Division also pays for the portable units at Nevin Park at a cost of \$3,500 annually for cleaning services and supplies. If the City were to construct the 11 needed restrooms, the Parks Division would need a minimum of \$300,000 annually above current expenditures, for in-house maintenance, utilities, and supplies. Corky Booze, Kathy Robinson, Jackie Thompson, Tony Mendocino, and Myrtle

Braxton gave comments. Discussion ensued. Councilmember Lopez asked that maintenance costs be included in the analysis. On motion of Councilmember Thurmond, seconded by Councilmember Viramontes requested that a full report regarding a short-term plan, as well as a long-term solution to come back to the City Council within 30 days or less and also direct the Recreation & Parks Commission to discuss this matter and return to the City Council with a recommendation also, passed by the unanimous vote of the Council. Councilmember Lopez asked that maintenance costs be included in the analysis.

In the matter to consider approval of appointments to City Council Standing Committees, Regional Committees, and Liaison positions. On motion of Vice Mayor Bates, seconded by Councilmember Viramontes, approved the following appointments: **Standing Committees:** **Finance, Administrative Services and Economic Development:** Councilmembers Butt, Rogers, Lopez, and Viramontes. **Public Safety & Services:** Councilmembers Bates, Sandhu, Marquez and Thurmond. **Regional Committees:** **West Contra Costa Transportation Advisory Committee (WCCTAC):** Councilmembers Butt, Viramontes and Mayor McLaughlin; Alternate: Councilmember Marquez. **West County Agency:** Councilmembers Bates and Viramontes; Alternate: Councilmember Marquez. **East Bay Regional Parks:** Councilmember Butt and Mayor McLaughlin; Alternate: Councilmember Thurmond. **Boards, Commission and Committee Liaisons:** **Arts & Culture:** Councilmember McLaughlin. **Commission on Aging:** Councilmember Bates. **Crime Prevention:** Councilmember Marquez. **West Contra Costa Unified School District:** Councilmembers Lopez and Thurmond. **Economic Development Commission:** Councilmember Viramontes. **Housing Advisory Board:** Vice Mayor Bates. **Human Relations Commission:** Councilmember Sandhu. **Library Commission:** Councilmember Sandhu. **Police Commission:** Councilmember Sandhu. **Workforce Investment Board:** Councilmember Thurmond. **Design Review Board:** Councilmember Butt. **Design Review Board:** Councilmember Butt. **Recreation & Parks Commission:** Councilmembers Marquez and Thurmond. **Sister City Relations Commission (Regla, Cuba – Shimada, Japan – Zhoushan, China)** Vice Mayor Bates. **Youth Commission:** Councilmembers Lopez and Thurmond. **Revolving Loan Fund:** Vice Mayor Bates. **Richmond Main Street Initiative:** Councilmembers Marquez, Viramontes, and Mayor McLaughlin (or representative from Mayor's Office). **Historic Preservation Committee:** Councilmember Butt. **Joint CC/WCCUSD Committee:** Councilmember Viramontes. **NR Mitigation Fee Joint Committee:** Councilmember Sandhu. **Joint Powers Cities and EBRPD Committee:** Councilmember Thurmond. **Civic Center Committee:** Councilmembers Butt, Viramontes, and Mayor McLaughlin (or representative from Mayor's Office) by the unanimous vote of the Council.

In the matter to adopt a resolution directing staff to solicit transportation grant funding and other funding associated with an underpass on Marina Bay Parkway directly South of Meeker Avenue. Councilmember Rogers stated that the Marina Bay Community previously discussed the issue of grade separation at Marina Bay. The City Council previously heard public comment on the BKF Study and narrowed down the many different options studied to build an overpass or underpass at Marina Bay

Parkway. There was an approximate 75% vote in favor of the underpass option and 0% in favor of an overpass. The residents who voted against pursuing the project, in general, stated several concerns, including: traffic increase, concern over a possible assessment to help pay for the grade separation and opposition to the grade separation because it is a vital part of the plan to bring the ferry to Marina Bay. The estimated cost for the overpass option is \$30 million and the cost for the underpass option is estimated at \$37 million. Erwin Friedman gave comments. Councilmember Rogers made a motion to adopt the resolution. The motion died for lack of a second. Vice Mayor Bates made a motion, seconded by Councilmember Thurmond that staff be directed to solicit grant funding for the purpose of an underpass and continue to review the matter of the bypass. The motion passed and **Resolution No 16-07** was adopted by the following vote: **Ayes:** Councilmembers Lopez, Marquez, Rogers, Sandhu, Viramontes, Vice Mayor Bates and Mayor McLaughlin. **Noes:** None. **Abstentions:** Councilmember Thurmond. **Absent:** Councilmembers Butt.

(On motion of Vice Mayor Bates, seconded by Councilmember Rogers to extend the meeting until 12:14 p.m.)

In the matter to direct staff to negotiate and execute an agreement with the Richmond Improvement Association (RIA) to implement neighborhood-based violence reduction programs for an amount not-to-exceed \$200,000, and for a term of one year. The final form of the agreement is subject to approval by the City Attorney. City Manager, Bill Lindsay, stated that the proposal is to make a start-up investment in the Richmond Improvement Association. Programs that are currently being developed and implemented by the RIA include Zero Homicide Campaign, Steelers for life Program, Affordable Housing Initiative, and Academic Center for Excellence, and Transportation Project. Corky Booze and Jackie Thompson gave comments in support of the agreement. Rev. Shumake stated that the RIA already has the non-profit status completed with the Internal Revenue Service and are waiting for the designation letter to be received. *(On motion of Councilmember Thurmond, seconded by Councilmember Viramontes extended the meeting an additional 7 minutes)*. On motion of Councilmember Thurmond, seconded by Councilmember Viramontes, approved the negotiation of the agreement and added that the Alliance Group sign the agreement that will ultimately get approved by the City Attorney, work with a non-profit group to provide technical assistance in order to build the organizational structure and build a board of directors, and prepare a fundraising plan, by the unanimous vote of the Council.

(Rev. Newsome asked for a moment of silence in memory of his father C.W. Newsome).

COMMUNICATIONS

None.

REPORTS OF OFFICERS: STANDING COMMITTEE REPORTS, REFERRALS TO STAFF, AND GENERAL REPORTS (INCLUDING AB 1234 REPORTS)

None.

ADJOURNMENT

There being no further business, the meeting adjourned at 12:25 a.m., in memory of Rev. C. W. Newsome, to meet again on Tuesday, February 20, 2007, at 7:00 p.m.

City Clerk

(SEAL)

Approved:

Mayor