

RICHMOND, CALIFORNIA, February 20, 2007

The Regular Meeting of the Richmond City Council was called to order at 7:42 p.m., by Mayor Gayle McLaughlin.

ROLL CALL

Present: Councilmembers Butt, Lopez, Marquez, Rogers, Sandhu, Thurmond, Viramontes, Vice Mayor Bates and Mayor McLaughlin. **Absent:** None.

STATEMENT OF CONFLICT OF INTEREST

None.

AGENDA REVIEW

Items G-2, G-4, G-6, G-9, G-10, and G-11 were removed from the Consent Calendar.

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:

(Councilmember Thurmond was not present during the closed session).

A-1. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Subdivision [a] of Government Code Section 54956.9)

Coalition of Concerned Citizens of Point Richmond vs. City of Richmond: Confidential direction was given to legal counsel.

Littlehale vs. City of Richmond: Confidential direction was given to legal counsel.

Quintero vs. City of Richmond: Confidential direction was given to legal counsel.

A-2. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code Section 54956.8)

Property: **1145 Harbour Way South** City's Negotiator: **Jim Matzorkis**, **Cal Oils'** Negotiator: Dan MacLean: Confidential direction was given to the City's negotiator.

Property: **2662 and 2566 Macdonald Avenue** City's Negotiator: Steve Duran, Counterparty: Judy Morgan, Richmond Chamber of Commerce: Confidential direction was given to the City's negotiator.

A-3. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code Section 54957.6)

Title: **City Manager:** This item was not discussed.

B-1. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Subdivision [a] of Government Code Section 54956.9)

Billion Enterprises vs. Richmond Community Redevelopment Agency: A settlement was reached with each party agreeing to dismiss each others claims against the other party without payment of any sum to the other party. Councilmember Lopez abstained.

OPEN FORUM FOR PUBLIC COMMENT

Mike Ali spoke regarding an article titled: "Consequences of a Rising Bay," which is about the shoreline rising three feet and the City is not prepared in its infrastructure to deal with this.

Roy Womack spoke on behalf of his bedridden, disabled friend who will soon be homeless. Mr. Womack has tried contacting every government agency for the last five months. Mr. Womack stated that his friend has been evicted from her home for complaining to the City of Richmond about the inadequate conditions she was living in. Mr. Womack asked for financial assistance to get his friend back to Massachusetts

Corky Booze asked that Eli Hollman and Wendell McGinnis who are nationally recognized basketball players at Richmond High School be recognized for their accomplishments. Mr. Booze asked that the City Council conduct the meetings more efficiently.

Mary Oshima gave comments regarding "Read America Week" at Grant School.

James Jenkins thanked Mayor McLaughlin, Councilmember Thurmond, and Vice Mayor Bates for the excellent African-American forum on the history of Richmond. Mr. Jenkins also thanked Councilmembers Lopez, Marquez, and Viramontes for organizing the immigration issue meeting at St. Mark's Catholic Church, and he thanked the entire City Council for adopting the resolution opposing the recent raids conducted by immigration officers in the City.

Kathy Robinson stated that there should be bathrooms available throughout all City parks, not just the ones located in the Marina and Point Richmond.

James Cash gave comments about the potholes along Cutting Boulevard and throughout the City that need immediate repair.

Jackie Thompson stated that the public schools need to bring back courses in technical skills such as machine shop, auto mechanic, home economics, sewing, etc. to high school students in order to assist them in learning life skills.

Robert O. Brown stated that he wants the community to be more involved in making the City better.

Phillip Mehas invited the Council and community to a forum on immigration reform at the Richmond Public Library on Wednesday, February 28, 2007.

Tarnell Abbott stated that the main library has not been receiving the City Council packets on a regular basis. Ms. Abbot also stated that there is illegal dumping on the access to the Bay

Trail on South 51st Street, and she thinks that, perhaps, a surveillance camera placed there for a short time may help in deterring the dumping that is occurring.

PRESENTATIONS, PROCLAMATIONS, AND COMMENDATIONS

Mayor McLaughlin read a proclamation recognizing Don Russell, owner of W.R. Forde and Associates Engineering Construction. She presented the proclamation to a representative for Don Russell. W.R. Ford Associates has committed to employ parolees who have participated in the Richmond Improvement Association's San Quentin Richmond Project. Corky Booze and Robert O. Brown gave comments in support of the proclamation and the positive achievements the Richmond Improvement Association has made with their program.

Chief Michael Banks introduced the Fire Department's 12 new firefighters and acknowledged the Academy Staff for their work during this recruit academy. The Councilmembers congratulated the firefighters.

CONSENT CALENDAR

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

* - Authorized the Port Director to enter into a Lease Agreement with Touchable Stories Inc. for the operation of a multi-media art facility open to the general public for an initial term until May 30, 2007 at a lease rate of \$1 per month.

A proposed contract with Elation Systems to provide software and technical support for a web-based labor compliance and monitoring software and technical support system to track compliance with City of Richmond's ordinances for a two-year term at an annual cost of \$40,000 was presented. Fred Lucero, Employment and Training Department, stated that the purpose for the contract is to give the department the capability to efficiently process certified payroll records and generate compliance and demographic reports for contracts covered by the Local Employment Ordinance and the Business Opportunity Ordinance. The cost for contract compliance services provided by Employment and Training will be covered by allocating funding from the Public Works Department and the Richmond Community Redevelopment Agency Capital Improvement Program Budgets. Mr. Lucero stated that it is mandatory for businesses to provide certified payroll records. Corky Booze gave comments on the matter. On motion of Councilmember Viramontes, seconded by Councilmember Marquez approved the contract by the following vote: **Ayes:** Councilmembers Butt, Lopez, Marquez, Rogers, Sandhu, Viramontes, Vice Mayor Bates, and Mayor McLaughlin. **Noes:** None. **Abstentions:** Councilmember Thurmond. **Absent:** None.

* - Adopted **Resolution No. 17-07** amending Resolution No. 52-06 to adjust appropriations for the 2006-2007 Workforce Investment Act and grant programs in the amount of \$600,000.

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 presented. Richard Mitchell, Director of Planning and Building, stated that this action would have no direct financial impact on the City. Secondary financial impacts may result from ultimate sale of the subject property to the project sponsor and the extension of City services to the new development. On December 12, 2006, the City Council adopted a resolution to certify the Environmental Impact Report, adopt the Mitigation Monitoring and Reporting Program, and approve the General Plan Amendment. The Council introduced the Ordinance Rezoning to Planned Area (PA) Development the site known as "Terminal One" for the Point Richmond Shores Residential Condominium Development Project. The Ordinance sets forth the proposed rezoning for the Point Richmond Shores project site and the specific details of the development plan for the project. Corky Booze, Chris Curtis, Beverly Galloway, and Jonathan Livingston gave comments. Discussion ensued. Councilmember Butt expressed concern that if this ordinance is approved, the City will not have an opportunity to be able to alter the design of the projects planned. A motion was made by Councilmember Viramontes, seconded by Councilmember Marquez to approve the ordinance. Discussion ensued. Councilmember Thurmond, seconded by Councilmember Rogers, made a substitute motion to hold this matter over until the charette process concludes. Councilmember Sandhu asked the City Attorney if approving this ordinance tonight would preclude decisions made in the design charette process. John Eastman, City Attorney, replied that the two items are separate matters. The substitute motion failed by the following vote: **Ayes:** Councilmembers Butt, Rogers, Thurmond and Mayor McLaughlin. **Noes:** Councilmember Viramontes and Vice Mayor Bates. **Abstentions:** Councilmembers Lopez, Marquez, and Sandhu. **Absent:** None. The original motion passed and **Ordinance No. 4-07 N.S.** was adopted by the following vote: **Ayes:** Councilmembers Lopez, Marquez, Sandhu, Viramontes, and Vice Mayor Bates. **Noes:** Councilmember Butt, Rogers and Mayor McLaughlin. **Abstentions:** Councilmember Thurmond. **Absent:** None.

* - Adopted **Resolution No. 18-07** upholding the appeal by Kevin Hampton and approving variances, for four undeveloped lots located on York Street, Cherry Street, and Duboce Avenue.

A proposed Joint Exercise of Powers Agreement between the City of Richmond and Contra Costa County for County construction of road surface improvements and curb ramp improvements on three sections of San Pablo Dam Road that are within the City's jurisdiction for an amount not to exceed \$69,000 was presented. Rich Davidson, City Engineer, stated that the Contra Costa County Public Works Department has scheduled maintenance work for San Pablo Dam Road from El Portal Drive to Tri Lane, There are 3.3 miles of San Pablo Dam Road that are within the City's jurisdiction. Funding will come from Measure C funds budgeted in the Capital Improvement program for miscellaneous street paving. Corky Booze gave comments. Councilmember Rogers asked if entering in this joint agreement would preclude the City from hiring a local Richmond company to work on this project. Mr. Davidson replied that he will ask the

County to try and select a Richmond-based company. On motion of Councilmember Marquez, seconded by Councilmember Viramontes, approved the agreement by the following vote: **Ayes:** Councilmembers Butt, Lopez, Marquez, Rogers, Sandhu, Viramontes, Vice Mayor Bates and Mayor McLaughlin. **Noes:** None. **Abstentions:** None. **Absent:** Councilmember Thurmond.

* - Accepted the work of Cleary Bros. Landscape and authorized release of \$106,698.72 retention. The Southside Park Renovation Project was successfully completed on January 30, 2007.

* - Approved a contract amendment between Shute Mihaly & Weinberger LLP and the City in the amount of \$25,000 for the continued representation of the City of Richmond, City Council, and City Clerk in the matter entitled Barra vs. City of Richmond.

In the matter to approve a contract with the law firm Wright, Robinson, Osthimer & Tatum for the provision of legal services in defense of a lawsuit entitled Auto Warehousing Company vs. City of Richmond. The contract amount is \$25,000 and will run through disposition of the lawsuit. Carlos Privat, City Attorney's Office, gave an overview of the matter. Mr. Privat stated that Auto Warehousing Company has filed an action against the City of Richmond, Surplus Property Authority of the City of Richmond, Richmond Joint Powers Financing Authority, Matson Navigation Company, Incorporated, SSA Marine, Incorporated, and Totem Ocean trailer Express, Incorporated. Auto Warehousing leases property from the Port of Richmond to process and store new cars coming into the Port. Matson Navigation Company is the shipper who directed the vessel *Great Land* through the Port. The *Great Land* is operated by Totem Ocean Trailer Express. On August 5, 2004, the *Great Land* blew its stack, discharging particulates which caused approximately \$350,000 in damage to autos being processed by Auto Warehousing. Councilmember Bates stated that all parties should come together and discuss how to resolve the matter rather than hire an outside attorney and spend unnecessary money. Mr. Privat replied that the outside attorney would file a cross complaint against the responsible parties in order to recover the City's losses. Councilmember Rogers stated that this matter should be discussed thoroughly in closed session to determine if an offer should be made, rather than enter into litigation. Corky Booze spoke in opposition of hiring outside counsel to defend this matter. On motion of Councilmember Viramontes, seconded by Councilmember Rogers approved the contract by the following vote: **Ayes:** Councilmembers Butt, Lopez, Marquez, Rogers, Sandhu, Viramontes, Vice Mayor Bates and Mayor McLaughlin. **Noes:** None. **Abstentions:** None. **Absent:** Councilmember Thurmond. Councilmember Bates asked that the Port Director to inform Auto Warehousing that the City is hiring outside legal counsel to handle this matter.

A proposed ordinance amending the Richmond Municipal Code Section 9.52.040 to include trains bells, sirens, horns, whistles, and similar audible warning devices as permissible exceptions to the Community Noise Ordinance (CNO) only to the extent that the use of such devices is permitted under state and federal law was presented. Carlos Privat, City Attorney's Office gave an overview of the matter. At the City Council meeting of

January 16, 2007, the Council directed the City Attorney to research and draft an ordinance amending the CNO to ensure that train warning devices are subject to the City's noise restrictions to the maximum extent permissible under state and federal law. The proposed amendment clarifies that audible warning devices are exempt 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, including, but not limited to, the sound level and the pattern or frequency of use. Corky Booze and Jackie Thompson gave comments on the matter. Councilmember Marquez questioned how this ordinance will be enforced. Councilmember Butt replied that someone would have to be at the crossing when the train passed by and write the name of the train, number, and time of day. On motion of Councilmember Butt seconded by Councilmember Thurmond, adopted **Ordinance No. 5-07 N.S.** by the following vote: **Ayes:** Councilmembers Butt, Lopez, Rogers, Sandhu, Thurmond, Viramontes, and Mayor McLaughlin. **Noes:** None. **Abstentions:** Councilmember Marquez and Vice Mayor Bates. **Absent:** None.

In the matter to adopt a resolution amending the City of Richmond classification plan to add the classification of **Financial Analyst**. Leslie Knight, Human Resource Director, stated that a study of the organizational structure of the Finance Department was conducted. As part of this review, new classes are being created in the department to increase organizational responsiveness and effectiveness. This class would provide greater flexibility in assigning incumbents to such areas as treasury, accounting, budget, auditing, grants or general research and support functions. The duties of the position will include budgetary monitoring, contract administration, research and analysis, policy and procedure development, internal auditing, and provide high level technical support to various departments and divisions throughout the City. This is not going to create a new position, but will consolidate various responsibilities into one and will have no budgetary impact. On motion of Councilmember Marquez, seconded by Councilmember Thurmond, adopted **Resolution No. 19-07**, by the unanimous vote of the Council.

* - Introduced an ordinance establishing wages, salary, and compensation for the new classification of **Financial Analyst (Salary Range: \$5,238 - \$6,441/month)**.

* - Adopted **Ordinance No. 6-07 N.S.** amending the Human Relations and Affirmative Action Commission (HRAAC) Ordinance, Chapter 3.58 of the Richmond Municipal Code.

* - Approved the assignment of rights and obligations of Veolia North America Operating Systems, LLC, a limited liability company, to Veolia Water Constructors, Inc. for the purposes of holding a contractor's license with the State of California. Authorized the City Manager to accept certificate of Veolia Water, S.A regarding reaffirmation of the guarantee given by Vivendi Water, S.A.

* - Approved appointments to the **Commission on Aging**: Myrtle Braxton– Ellington, term expiring May 19, 2008 (completing an unexpired term); and **Arts & Culture Commission**: Andres Cisneros-Galindo, term expiring January 31, 2008 (completing an unexpired term).

* - Approved the minutes of Morning and Evening Open Sessions held on February 6, 2007.

ORDINANCES

None.

COUNCIL AS WHOLE

In the matter to discuss and direct staff to develop an ordinance outlining the procedures to interview and select candidates to fill vacancies on the City Council. Councilmember Marquez gave an overview of the matter. The recommendation is that staff draft an ordinance that if a vacancy occurs, any person who would like to be a councilmember would apply, be interviewed in public by Councilmembers, and respond to questions from the public. James Jenkins, Tarnell Abbot and Corky Booze gave comments in opposition of the proposed ordinance because the decision will ultimately still be made by the Council, not the voters. Mayor McLaughlin asked that a blue ribbon commission be formed in order to make a recommendation for a charter review of the candidate selection process, and she stated that this decision should be based on the decision made by the voters. On motion of Councilmember Lopez, seconded by Councilmember Marquez, directed staff to develop an ordinance pertaining to how to select candidates to fill vacancies on the City Council. Mayor McLaughlin, seconded by Councilmember Thurmond, made a substitute motion that suggested processes to select candidates be sent to the charter review consultant and each Councilmember would have an opportunity to appoint someone to the proposed blue ribbon committee, failed by the following vote: **Ayes:** Councilmembers Butt, Thurmond, and Mayor McLaughlin. **Noes:** Councilmembers Rogers and Sandhu. **Abstentions:** Councilmember Lopez, Marquez, Viramontes, and Vice Mayor Bates. **Absent:** None. The original motion passed by the following vote: **Ayes:** Councilmembers Butt, Lopez, Marquez, Rogers, Sandhu, Thurmond, Viramontes, and Vice Mayor Bates. **Noes:** Mayor McLaughlin. **Abstentions:** None.

In the matter to discuss and recommend amendments to ordinances regulating Planning and Design Review governing policy, staff administrative review process and authorize a stipend to commissioners. Councilmember Viramontes gave an overview of the matter. The recommendation is to merge the Planning Commission and the Design Review Board in 2007, along with completing a staff administrative process for small planning and design review projects over the counter. The completion of this document will provide a basis to reduce conflicts on Design and Review issues and create some predictable process for timely approval of applications and allow for an administrative process for planning, design review and permitting of smaller projects or additions over the counter. Having both a Planning Commission and Design Review Board has not always worked smoothly and there is a need to find a way for the two bodies to work cohesively and arrive at a timely decision. The completion of the Design Review Standard Regulations provides a reasonable opportunity to merge the Design Review Board functions with the planning Commission. The new Planning Design Commission would meet more

frequently, therefore a stipend of \$50 per meeting attended with a maximum compensation of \$200 per month for each commissioner is recommended. Richard Mitchell, Planning and Building Director, stated that the design guidelines to be presented to the City Council on March 30th will only pertain to the central Richmond residential district. There are currently not enough funds available to prepare design guidelines for the entire city. Councilmember Butt requested that the “Zucker Study” dealing with the audit of planning and building processes and procedures be given to the Council immediately. Councilmember Viramontes expressed frustration with the fact that not enough money was allocated to prepare the design guidelines for the entire city after the Council asked how much money was needed. Jonathon Livingston, Jim Bates, Corky Booze, Cochise Potts, and Tanya Boyce gave comments. Discussion ensued. On motion of Vice Mayor Bates, seconded by Councilmember Viramontes, approved obtaining a final product deadline for the completion of the already approved citywide Design and Review Standards from the City Manager, passed by the unanimous vote of the Council. On motion of Councilmember Viramontes, seconded by Councilmember Rogers, requested that staff return with a recommendation for a administrative and exempt process for review of small projects that would include residential, industrial, commercial, office, and retail and return to the City Council in April 2007 and any budget considerations for implementation of this administrative process be part of the 2007-08 budget process, passed by the unanimous vote of the Council. A motion by Vice Mayor Bates, seconded by Councilmember Rogers to include funding for training for Planning Design Commission in the Planning Department budget for 2007-2008, passed by the unanimous vote of the Council. On motion of Vice Mayor Bates, seconded by Councilmember Viramontes recommended amending the ordinance to allow for more meetings as needed and establish a stipend of \$50 per meeting attended with a maximum compensation of \$200 per month for each Commissioner, passed by the following vote: **Ayes:** Councilmembers Butt, Marquez, Sandhu, Viramontes, and Vice Mayor Bates. **Noes:** Councilmembers Lopez, Rogers, and Thurmond. **Abstentions:** Mayor McLaughlin. **Absent:** None. On motion of Councilmember Viramontes, seconded by Councilmember Rogers, recommended amending the ordinances regulating the Design and Review Board and the Planning Commission by merging the functions into one cohesive governing body for Planning Design Commission by August 1, 2007, with nine members. Councilmember Butt suggested that the opportunity be given to the Planning Director to research what other cities are doing regarding their planning and design review commissions and return with a report to the City Council by the end of March 2007. Mayor McLaughlin made a substitute motion to wait for staff to return to the Council with the design guidelines once completed. The motion died for lack of a second. Councilmember Rogers withdrew his second to the motion and Vice Mayor Bates seconded it. The motion passed by the following vote: **Ayes:** Councilmembers Marquez, Lopez, Rogers, Sandhu, Thurmond, Viramontes, and Vice Mayor Bates. **Noes:** Mayor McLaughlin. **Abstentions:** Councilmember Butt. **Absent:** None.

In the matter to discuss and approve development of Title IV Part E Claiming Process by establishing a commission to claim matching funds for local expenditure for at-risk children and families. Councilmember Viramontes gave an overview of

the matter. There would need to be a \$25,000 allocation for a consultant to establish a commission in addition to administrative cost for trackers. However, there will be discussion with the County to determine if this can be done free of charge first. Traditionally, the Federal Government funds the states for child welfare programs, foster care, adoption, and child protective services for “at risk” out of home children under this title. In California, these programs are administered by counties and the state plan allows for state/county funds to be reimbursed by Title IV-E. On motion of Vice Mayor Bates, seconded by Councilmember Viramontes, approved the item and including a directive to have grant writer, Glen Price assist in this matter, passed by the following vote: **Ayes:** Councilmembers Butt, Lopez, Rogers, Sandhu, Thurmond, Viramontes, Vice Mayor Bates, and Mayor McLaughlin. **Noes:** None. **Abstentions:** None. **Absent:** Councilmember Marquez.

(On motion of Vice Mayor Bates, seconded by Councilmember Thurmond extended the meeting for 5 minutes, by the unanimous vote of the Council).

Discuss and provide direction to staff regarding the retaining of a master developer for the Civic Center Project. Vice Mayor Bates stated that there needs to be someone in charge of this project, ensure that the deadlines are met, that the budget is adhered to, etc. independent of the contractor, who is accountable to the Mayor, City Manager, and City Council. Councilmember Butt suggested that this person be housed at City Hall and attend all meetings pertaining to the Civic Center project. City Manager, Bill Lindsay, stated that a new organizational chart and scope of work can be brought back to the Council for a decision. *(On motion of Vice Mayor Bates, seconded by Councilmember Viramontes, extended the meeting until the conclusion of this item, by the unanimous vote of the Council).* Josh Genser stated that Richmond Civic Center Partners is willing to work with anyone who is selected. However, if there are delays in the selection of this person, substantial costs will be incurred. Mr. Lindsay suggested that this be handled by a firm, rather than selecting one individual. On motion of Vice Mayor Bates, seconded by Councilmember Viramontes, directed the City Manager to return to the City Council within two to four weeks with a recommendation for a master developer, passed by the unanimous vote of the City Council.

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 12:18 a.m., in memory of Beverly Ware, Director of the County Center for Volunteerism, Jennie Guzman, grant writer for Safe Passage Home, and Katie Lee, to meet again on Tuesday, March 6, 2007, at 7:00 p.m.

City Clerk

(SEAL)

Approved:

Mayor