

RICHMOND, CALIFORNIA, July 12, 2024

Community Services Building
440 Civic Center Plaza
Richmond, CA 94804

A. OPEN SESSION TO HEAR PUBLIC COMMENT BEFORE CLOSED SESSION

The Richmond City Council Open Session was called to order at 9:33 a.m. by Mayor Eduardo Martinez.

B. ROLL CALL

Present: Councilmembers Gayle McLaughlin, Doria Robinson, Melvin Willis, and Mayor Eduardo Martinez. **Absent:** Councilmember Cesar Zepeda arrived after the roll was called. Councilmember Soheila Bana and Vice Mayor Claudia Jimenez were absent for the entire meeting.

C. CLOSED SESSION

C.1 CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code Section 54956.8)

- Property: Point Molate (site of former Naval Shipyard Depot)
Agency Negotiator: Dave Aleshire
Negotiating Parties: East Bay Regional Park District & Tribe & Upstream Point Molate LLC
Under negotiation: Price and terms of payment

D. PUBLIC COMMENT BEFORE CLOSED SESSION

The following individuals gave comments in person: David Helvarg, Toni Hanna, Sally Tobin, Toney Wright, Norman LaForce, Regina Gilligan, Debbie Bayer, Tim Laidman, Robert Cheasty, Roger Huddle, and Alix Mazuet. The following individuals gave comments via teleconference: Jeanne Kortz, Shawn Dunning, Paul Carman, Pam Stello, Jack Scheinman, and Erin Freeman.

E. ADJOURN TO CLOSED SESSION

The Open Session adjourned to Closed Session at 10:07 a.m. The Closed Session adjourned at 10:45 a.m.

F. SPECIAL COUNCIL MEETING OF THE RICHMOND CITY COUNCIL

The Special Meeting of the Richmond City Council was called to order at 10:50 a.m. by Mayor Martinez.

G. PLEDGE OF ALLEGIANCE

Mayor Martinez led the Pledge of Allegiance to the flag.

H. ROLL CALL

Present: Councilmembers McLaughlin, Robinson, Willis, Zepeda, and Mayor Martinez. **Absent:** Councilmember Bana and Vice Mayor Jimenez were absent for the entire meeting.

I. STATEMENT OF CONFLICT OF INTEREST

None.

J. AGENDA REVIEW

No changes.

K. REPORT FROM THE CITY ATTORNEY OF FINAL DECISIONS MADE DURING CLOSED SESSION

City Attorney Dave Aleshire stated there was no reportable action taken on Item C.1 (Point Molate real property negotiation).

L. NEW BUSINESS

L.1 Disposition of 81.56 acre Developable Property at former Point Molate Naval Facility by Letter of Intent

APPROVE entering into the Letter of Intent (LOI) and execution by the Mayor with any final technical changes made by the City Attorney – City Attorney’s Office (David Aleshire 510-620-6509).

City Attorney Dave Aleshire introduced the matter. Mr. Aleshire provided an overview of prior events regarding Point Molate and the terms of the proposed Letter of Intent. The following individuals gave comments in person: Diana Wear, Norman LaForce, Sally Tobin, Martha Gruelle, Tarnel Abbott, Nina Smith, Jim Hanson, Jovanka Beckles, Robert Cheasty, Marilyn Langlois, David Helvarg, and Colin Coffey. The following individuals gave comments via teleconference: Doria Mueller-Beilschmidt, Paul Carman, and Shawn Dunning. Discussion ensued.

To approve the staff recommendation.

Ayes (5): Mayor Eduardo Martinez, Melvin Willis, Cesar Zepeda, Doria Robinson, and Gayle McLaughlin

Absent (2): Soheila Bana and Vice Mayor Claudia Jimenez

Passed (5 to 2)

M. ADJOURNMENT

There being no further business, the meeting adjourned at 12:23 p.m., to meet again on September 10, 2024, at 6:30 p.m.

Pamela Christian, Clerk of the City of
Richmond

Eduardo Martinez, Mayor

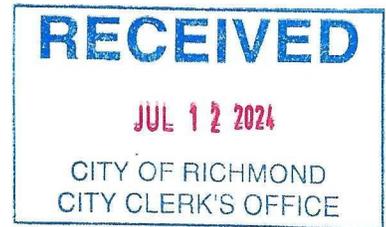
From: [Jane Courant](#)
To: [City Clerk Dept User](#)
Subject: Public comment on Item D Point Molate sale
Date: Thursday, July 11, 2024 11:02:37 AM

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Dear Mayor and City Council members,

I have followed this struggle to create a park on the beautiful land that is Point Molate since we moved to Richmond over ten years ago. I wholeheartedly support this sale, and I appreciate those of you who were on the council to vote down the misguided proposal to sell the land to a developer who sought to create unsustainable, expensive housing on this valuable public treasure. Thanks for your hard work to give the people of Richmond, the entire Bay Area and the wildlife that flourishes there an invaluable resource.



HAND DELIVERED

July 12, 2024

Hon. Eduardo Martinez, Mayor
Hon. Soheila Bana, Councilmember
Hon. Claudia Jimenez, Councilmember
Hon. Gayle McLaughlin, Councilmember
Hon. Doria Robinson, Councilmember
Hon. Melvin Willis, Councilmember
Hon. Cesar Zepeda, Councilmember
Ms. Shasa Curl, City Manager
Dave Aleshire, Esq., City Attorney
City of Richmond
440 Civic Center Plaza
Richmond, CA 94804

Re: July 12, 2024 Special Meeting of the City Council

Dear Mayor, City Councilmembers, City Manager and City Attorney:

We understand you intend to hold a Special Meeting to consider directing staff to enter into a Letter of Intent (“LOI”) regarding the sale of 81.56 acres of developable land (the “Property”) at Point Molate to the East Bay Regional Parks District. Under the proposed LOI, the City would walk away from the City’s interest in the Property, including 50% of the proceeds of any sale by the Tribe and its development entity, Upstream. Under the LOI, the entirety of the proceeds would remain in the hands of the Tribe/Upstream.

As described below, the LOI would 1) constitute an additional breach of the City’s legal obligations and provide further evidence of the City’s prior breaches of its agreements with Winehaven; 2) fail to provide sorely needed housing as well as economic development for the community in contravention of the Winehaven agreements, the City’s General Plan, zoning, the amended federal court judgment, and the express terms and conditions of the City’s acquisition of the property from the U.S. Navy; and 3) constitute a violation of the fiduciary duties owed to the City by undervaluing the Property and exposing the City’s General Fund to the full measure of damages in the Winehaven litigation.

Moreover, adopting the LOI in a special Council meeting would be misguided; that the Council once again seeks to decide an important issue affecting the future of Point Molate in a

hastily scheduled Friday special meeting reveals the City’s strategy of minimizing the public’s opportunity to evaluate the City’s misconduct. The staff report fails to establish any actual exigency for the LOI and the forfeiture of the City’s half interest in the Property. Regrettably, the City’s intent appears, once again, to be to avoid any public input or scrutiny about its mishandling of Point Molate.

1. The LOI Highlights the City’s Breaches of its Agreements with Winehaven

Winehaven and the City agreed to provide additional housing units, jobs and other economic benefits to Richmond, while maintaining 70% of Point Molate as open space. The LOI is intended to prevent any housing or commercial use there.¹ The LOI’s transparent attempt to engineer a false narrative that the value of the City’s interest—and therefore the amount Winehaven may recover—is zero, is further evidence of the City’s breaches of the agreements. Under the Winehaven agreements, the City would receive half the \$45² purchase price, while achieving the goals of adding thousands of new housing units, remediating contamination, preserving historical sites, securing vegetation management in perpetuity, and maintaining 70% of the site as open space. The LOI eliminates every single one of these community benefits based on the staff report’s unsupported assertion that the LOI “*may* have a positive *but unquantified* impact on the Richmond General Fund.” (emphasis added). Moreover, such assertion is belied by, among other things, the fact that the City’s contract for vegetation management on the property mandates that the funds for the contract will come from the City’s General Fund. (See Agenda Package for July 2, 2024 Special Meeting, PDF Pg. 19).

2. The LOI Violates the City’s General Plan, Zoning, the Amended Judgment and Basis for the US Navy’s Relinquishment of Point Molate

As the staff report notes, pursuant to the Amended Judgment issued by the U.S. District Court in the action *Guidiville Rancheria of California v. United States*, Case No. CV12-1326, “thirty percent (30%) [of the land at Point Molate] was to be ‘development areas,’” and the “principal goal” was to “induce the sale of [Point Molate], *preferably to a capable developer*[.]” (Agenda Package for July 12, 2024 Special Meeting, PDF Pg. 8) (emphasis added). The LOI sidesteps these findings by gifting the City’s interest to allow a buyer who will *not* develop the land, provide housing of any kind, or add to Richmond’s economic base, to acquire the property. The LOI would convert land currently designated and zoned for housing and commercial development to park land, calling into question the City’s compliance with Housing Element Law and ability to meet its Regional Housing Needs Assessment (RHNA) requirements, which

¹ Given that the Winehaven agreements provide for extensive open space, the City’s transfer of its interest in the Developable Land likely constitutes a gift of public funds in violation of California Constitution Article XVI, § 6. At a minimum, the intent to eliminate any housing and economic development at Point Molate raises serious questions that should be thoroughly investigated.

² The purchase price reflects the City’s requirement that the project be constructed with union labor. The City’s current course of action harms union workers by depriving them of a substantial, multi-year contract.

the City is significantly behind on meeting.³ Additionally, the LOI is evidence of the City's intent to violate the Zoning Code requirement to prevent demolition by neglect of historic resources. The City has allowed the historic Winehaven region, a property listed on the National Register of Historic Resources, to fall into disrepair, and opted to forgo funds that could be used to rehabilitate the Winehaven buildings to achieve a regional park the General Plan says is not needed.⁴ Finally, the Navy's conveyance of Point Molate to the City of Richmond as part of the federal Base Realignment and Closure process, expressly noted that the City would use the land for self-sustaining regional economic development. By breaking the promise to promote economic redevelopment and create new jobs, the LOI violates the underlying rationale for the relinquishment. *See* Record of Decision for Disposal and Reuse of the Fleet Industrial Supply Center, Naval Fuel Depot Point Molate, CA, 67 Fed. Reg. 41967-68 (June 20, 2002).

3. The LOI Would Breach The Council's Fiduciary Duties

Regrettably, Richmond's residents will suffer the financial and other consequences of the LOI. The LOI makes clear that the City's breaches of the Winehaven agreements were intended to prevent the construction of housing (including, importantly, affordable housing) and promote economic vitality. The LOI accomplishes this bad faith and unlawful intent, and adds insult to injury, by forfeiting the City's share of the discounted proceeds under the pretext that that somehow benefits the City. Any judgment to Winehaven will have to be paid directly from the general fund, further harming the City's residents. It should also be noted that Winehaven's damages will not be limited to the amount, if any, the City derives from a sham transaction under the proposed LOI; Winehaven's complaint seeks not less than \$70 million for its damages, representing the value of the City's interests at the time of the City's breach.

Procedurally, the staff report fails to establish any actual exigency that would justify the handling of this important matter in a special meeting on a Friday, on only 24-hours' notice. The City's desire to reduce public review and input of its actions and to minimize the opportunity to rebut the dubious assertions in its staff report do not constitute grounds for a special meeting on minimal notice.

The City appears poised to cut off its proverbial nose to spite its face by approving the LOI and completing its scheme to subvert its contractual obligations, state law, the City's

³ The soundness of the staff report's assumption that the State of California—facing significant budget headwinds and an unprecedented array of statutory initiatives intended to ensure that California's cities meet their obligation to promote the construction of net new housing units--will provide \$36 million to *prevent* housing from being built on the Property—remains to be seen.

⁴ The City has approximately 5,718 acres of regional and state parklands. General Plan, Parks and Recreation Element, at 10.4. That is over 50 acres per 1,000 residents, when the City's goal is 3 acres per 1,000 residents. *Id.* at 10.10.

General Plan, the Navy's express intent in surplus-ing Point Molate to the City, and the best interests of the residents, so as to satisfy the desire of some residents to have a "major park."⁵

Winehaven strenuously objects to the Council's consideration of the LOI, and reserves all rights to pursue all available legal remedies under the law against the City and its agents and employees.

Respectfully submitted,

/s/ Marc Magstadt

Marc Magstadt
Chief Investment Officer
Argent Developmet
mmagstadt@argentdevco.com

On behalf of Winehaven Legacy LLC

cc: Guidiville Rancheria of California,
Upstream Point Molate LLC
East Bay Regional Park District
Hon. Rob Bonta, Attorney General

⁵ The staff report's citation to Councilmember McLaughlin's statement that "dreams can and do come true" demonstrates the lack of any independent, professional assessment of the LOI's underlying purpose.