City Manager's Weekly Report
For the week ending September 12$^{\text{th}}$, 2008

1.   **Meeting Notes**

The next regular City Council meeting is scheduled for Tuesday, September 16$^{\text{th}}$, beginning with a Closed Session at 5:00 PM, followed by the Redevelopment agenda at 6:00 PM, and the City Council agenda at 7:00 PM.

Please note that the City Clerk has asked for your input regarding cancellation of the meeting on Tuesday, November 4$^{\text{th}}$ (Election Day). The plan would be to have a regular business meeting on Tuesday, October 28$^{\text{th}}$, rather than reserving that 4$^{\text{th}}$ Tuesday meeting only for Study Sessions, as is the custom. This would help make up for the lost meeting on the first Tuesday in November. The City Clerk would like to hear your comments on this.

2.   **Ninth Circuit Grants Local Entities Broad Authority Over Zoning of Wireless Telecommunication Facilities**

In 2007, a three-judge panel of the Ninth Circuit Court of Appeals held that the federal Telecommunications Act of 1996 (Pub L. 104-104, 110 Stat. 56) precluded local entities from comprehensively regulating the "placement, design, and processing of wireless telecommunications facilities" through zoning ordinances. (See *Sprint Telephony PCS, LLP v. County of San Diego*, 490 F.3d 700 (9$^{\text{th}}$ Cir. 2007). The panel reached this conclusion after reviewing multiple Ninth Circuit decisions holding that section 253(a) of the Act had broad preemptive effects, precluding any local regulation that "may have the effect of prohibiting the provision of telecommunication services," or that even simply "creates a substantial bar" to such provision. Under this standard, the Court concluded that the prerequisites for a wireless facility permit imposed by the County could cumulatively present a barrier for the provision of wireless services, and ruled that the Act preempted the County's ordinance.

Last April, the County of San Diego petitioned the Ninth Circuit for a rehearing *en banc*, which the Court granted and heard in late June 2008. On September 11, 2008, the Court issued a new opinion reversing the decision in the *Sprint Telephony* case. The Court found that its prior rulings suggesting that section 253(a) of the Act preempts virtually all local regulation was based on an erroneous reading of Congressional intent. In a complete turnaround, the Court found that "a plaintiff suing a municipality under section 253(a) must show actual or effective prohibition, rather than merely the possibility of prohibition." Moreover, the Court held that a plaintiff must show more than that a local zoning ordinance might potentially prohibit the provision of telecommunication services in the future. Thus, the Court changed the standard from one of presumed preemption to one of presumed legality.

Last fall, the City Council formed an ad hoc committee comprised of staff, council members, and members of the public to draft a wireless telecommunication facility

ordinance designed to regulate the placement, design, and processing of wireless facility permits. Now that the Ninth Circuit has made clear that the City has broad authority to regulate the placement and design of wireless facilities, the committee will soon be able to finalize the draft ordinance and present it to the Council.

3.   **Meeting with Representatives of Richmond Contractors Alliance**

City and Community Development staff members Steve Duran, Jim Goins, Tim Jones, Sal Vaca, Fred Lucero, Bruce Soublet and I met today with Rhonda Harris and representatives of the Richmond Contractors Alliance to discuss ways in which the City could improve its working relationships and help develop more opportunities for local contractors. Among the topics discussed were:

- Technical assistance for local contractors – Contractors Alliance members indicated that it would be helpful to have local training workshops on such topics as project scheduling, estimating, project management and construction management. As a follow-up, Employment and Training Director Sal Vaca will explore potential options for providing such expanded, local training opportunities.

- Outreach to local contractors regarding projects "in the pipeline" – The group discussed how to more effectively advise local contractors of upcoming opportunities, not just for City and Redevelopment Agency public works projects, but also for private development projects where local subcontractors might have opportunities. The Community and Economic Development group of managers plans to develop some standard operating procedures for broader and more consistent outreach to local contractors.

- Advising general contractors of responsibilities under local ordinances with respect to local hiring – It was generally concluded that mandatory pre-bid conferences might be helpful in making certain that general contractors understand these obligations for City projects.

- Reducing retention amounts to assist in cash flow – The group noted that high dollar amount and long retention periods are especially difficult for smaller contractors. As a follow-up, City staff will discuss with Merriweather and Williams, with whom the City recently contracted to developing insurance bond programs to assist local contractors, ideas that they may have for reducing contract retentions while still providing payment and job completion assurance.

From my perspective, the meeting was very useful and productive.

4.   **Public Works Paving Progress**

This past week, Public Works crews completed the resurfacing of 20th and 21st Streets between Macdonald Avenue and Barrett Avenue. Next week, Public Works will be resurfacing Collins Street from Curry Street to W. Chanslor Avenue in Atchison Village.

5. **State Budget News – Impact on Redevelopment**

While the budget saga continues at the State, one terrible constant seems to be a raid on local redevelopment funds. On Monday, September 8, the Senate considered the Senate Republican version of the budget (AB 1793) and voted it down, 13-21, on a party line vote. This plan proposed taking over $1 billion in redevelopment funds. On Tuesday, September 9, the Assembly took up the Senate Republican version of the budget (SB 1087), with the same $1 billion hit to redevelopment, and voted it down, 27-45, generally along party lines. Earlier this week, the Assembly amended the provisions of the Governor's August budget plan making it the fourth budget plan that proposes to take significant redevelopment funds – a minimum of $675 million over three years.

The good news is that none of these plans propose borrowing money from local governments under Propositions 1A and 42.

Redevelopment funding continues to be at great risk based on horribly erroneous assumptions by both political parties about how redevelopment funds are committed and how they flow through the economy. As you know, redevelopment dollars leverage private sector investment, which, in turn, put people to work and generate more activity in the overall economy. Through economic modeling, the California Redevelopment Association (CRA) estimates that a take of $675 million will cause a loss of $466 million in State tax revenues. The investment banking firm of Stone & Youngberg (S&Y) has pointed out that there will be a huge reduction in bonding capacity for redevelopment agencies. S&Y estimates that the proposed $225 million annual loss of revenues will rob local governments of $2.7 to $3.0 billion of bonding capacity, and thus, that much in investments in local communities.

We will keep you informed.

6. **Web Site Fun Facts: Visitor Summary August 2007 versus August 2008**

Continuing the trend, the number of visitors to the City of Richmond website is up substantially for August as compared to the same period last year.

Visitor Summary			
	August 2007	August 2008	% Change
Unique Visitors	41,934	67,635	61.29%
Visitors Who Visited Once	32,141	56,992	77.32%
Visitors Who Visited More Than Once	9,739	10,645	8.86%
Average Visit Length	00:11:13	00:13:24	19.47%
International Visits	4.26%	12.60%	195.77%