

**RICHMOND, CALIFORNIA, June 16, 2009**

The Regular Meeting of the Richmond City Council was called to order at 5:07 p.m. by Mayor Gayle McLaughlin.

**ROLL CALL**

**Present:** Councilmembers, Rogers, Viramontes, Vice Mayor Lopez, and Mayor McLaughlin. **Absent:** Councilmembers Bates, Butt, and Ritterman (Councilmember Butt and Ritterman arrived at 5:08 p.m., Councilmember Bates arrived after adjourning to Closed Session).

**PUBLIC COMMENT**

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

**CITY COUNCIL**

**LIABILITY CLAIMS – PENDING LITIGATION (Government Code Section 54956.9):** Daly vs. City of Richmond; Debra Noonan vs. City of Richmond

**CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Subdivision [a] of Government Code Section 54956.9):** Booker vs. City of Richmond; Citizens for East shore Parks and Sustainability vs. City of Richmond; Communities for a Better Environment (CBE) vs. City of Richmond

There were no public speakers.

The Open Session adjourned to Closed Session at 5:08 p.m. The Closed Session adjourned at 6:41 p.m. The Regular Meeting of the City Council was reconvened at 7:39 p.m. by Mayor Gayle McLaughlin.

## **STATEMENT OF CONFLICT OF INTEREST**

None.

## **AGENDA REVIEW**

Removed Items F-1, F-3, F-7, F-8, F-9, F-18, F-24, F-26, and F-27 from the Consent Calendar. Withdrew Item I-1 from the Agenda. Continued Items I-2 and J-1 to June 23, 2009. Continued Item J-2 to July 7, 2009. Items F-9 and F-24 were addressed and placed back on the Consent Calendar.

## **PRESENTATIONS, PROCLAMATIONS, AND COMMENDATIONS**

Mayor McLaughlin gave a brief overview of the Training and Education for Community Home and School (TECHS) After-School Program and introduced Felicia Taylor, Director of the program, who provided a brief history of the program. Mayor McLaughlin presented certification of accomplishments to the TECHS After School Program recipients to acknowledge their dedication and exceptional hard work. Myrtle Braxton, Founder of the program, gave words of thanks.

Mayor McLaughlin read a proclamation recognizing the accomplishments and the ongoing struggles of the gay, lesbian, bisexual, transgender (LGBT) community and declared the month of June as Pride Month in the City of Richmond. Groups recognized were: RYSE, Rainbow Community Center, Allied Action Board of Directors, and Contra Costa Equality. Speakers were: Jennifer Flores, Vincent Reed, Kimberly Aceves, Kanwarpal Dhaliwal, Jim Jenkins, Jerome smith, Jovanka beckles, bew barr, Leslie stewart, Melanie langlois, Sandra burch, .Fletcher Oakes, and Andre Soto.

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

City Attorney, Randy Riddle, reported the following:

**CITY COUNCIL**

**LIABILITY CLAIMS – PENDING LITIGATION (Government Code Section 54956.9):** Daly vs. City of Richmond (*continued to June 23, 2009*); Debra Noonan vs. City of Richmond (**the City Council voted to settle in the amount of \$50,000**).

**CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Subdivision [a] of Government Code Section 54956.9):** Booker vs. City of Richmond; Citizens for East shore Parks and Sustainability vs. City of Richmond; Communities for a Better Environment (CBE) vs. City of Richmond (*No reportable actions*).

**CONSENT CALENDAR**

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

A proposed Contract Amendment No. 1 with Forster & Kroeger for fire hazard vegetation control for the Point Molate facilities and beach area, extending the term by one year to cover July 1, 2009, to June 30, 2010, in an amount not to exceed \$251,000.04 was presented. The total contract amount will be \$482,500.04 for the two-year period. Jackie Thompson spoke on this item. Parks Superintendent Tony Norris gave comments. On motion of Councilmember Rogers, seconded by Vice Mayor Lopez approved Contract Amendment No. 1 with Forster & Kroeger by the unanimous vote of the Council.

\*-Approved the donation of one surplus fire engine (1986 Pierce Dash Pumper) to the Los Medanos College Firefighter Academy in Pittsburg, California and a second surplus fire engine (1991 Pierce Dash Pumper) to the Municipality of Santa Maria Huatulco, Oaxaco, Mexico.

A proposed resolution authorizing participation and membership in the California Joint Powers Risk Management Authority (CJPRMA) for placement of general liability insurance coverage for a period of three years commencing July 1, 2009, in a premium amount not to exceed \$1,000,000 for fiscal year 2009/2010, and as adjusted on an annual basis thereafter was presented. Risk Manager Robyn Kain gave comments. On motion of Councilmember Viramontes, seconded by Vice Mayor Lopez adopted **Resolution No. 52-09** by the unanimous vote of the Council.

\*-Approved a contract amendment with Trisha A. Aljoe to provide continued legal services working with the Police Department in connection with code enforcement activities, drug house abatement matters, and general legal matters in the amount of \$150,000. The term of the contract shall be July 1, 2009, through June 30, 2010.

\*-Introduced an ordinance (first reading) establishing the wages, salary, and compensation for the classification of Payroll Supervisor (Salary Range No. 057: \$6,218 - \$7,560/month).

\*-Adopted **Resolution No. 53-09** amending the City of Richmond Position Classification Plan to delete the classification of Lead Payroll Coordinator and add the classification of Payroll Supervisor.

**Item F-7 and F-8 were heard in concurrence.** A proposed ordinance (first reading) establishing the wages, salary, and compensation for the new classification of Cable Television Manager (Salary Range 066: \$6,660-\$8,095/month) was presented. Lynda Mcphee of KCRT spoke on this item. On motion to of Councilmember Bates, seconded by Councilmember Viramontes **referred the item to the Finance Standing Committee** by the unanimous vote of the Council.

**Item F-7 and F-8 were heard in concurrence.** A proposed resolution amending the City of Richmond Position Classification Plan to add

the new classification of Cable Television Manager was presented. Lynda Mcphee of KCRT spoke on this item. On motion to of Councilmember Bates, seconded by Councilmember Viramontes **referred the item to the Finance Standing Committee** by the unanimous vote of the Council.

\*-Approved Amendment No. 2 to the Miscellaneous Concrete Repairs contract with Bay Hawk, Inc. to increase the contract value by \$95,000 for a total of \$654,950 while extending the expiration date to June 30, 2010.

\*-Approved a contract with the Oakland Private Industry Council to process Individual Training Accounts (ITAs) for program participants funded by the Workforce Investment Act in an amount not to exceed \$330,000 for a term of June 16, 2009, through June 30, 2010.

\*-Approved a contract with Andre Vernon to provide instructional services for the Richmond BUILD program in an amount not to exceed \$40,000 for the term of May 5, 2009, through June 30, 2010.

\*-Approved a contract with Cleve Harris to provide welding technology training for students participating in the Richmond BUILD Program in an amount not to exceed \$25,000 for a term of June 16, 2009, through June 30, 2010.

\*-Approved a contract with AN West for completion of final engineering design and bid documents for five retaining walls as part of the Point Richmond Retaining Wall Repair project in an amount not to exceed \$88,278.

\*-Approved a contract with Rowley International Inc. to allow the continuation of quality assurance activities during the construction of the swimming pool for the renovation of the Richmond Natatorium (the Plunge) in an amount not to exceed \$25,189.42.

\*-Approved the purchase of tables, chairs, and storage units for nine community centers and the

Richmond Auditorium from Mity-Lite, Inc. under a State of California, Multiple Award Schedule (CEMAS) Bid Contract No. 4-06-01-0061B in an amount not to exceed \$95,000.

\*-Approved a professional services contract with Marcy Wong & Donn Logan Architects to continue architectural services on the Martin Luther King (MLK) Community Center and Park Project in an amount not to exceed \$97,541.72.

\*-Adopted **Resolution No. 54-09** approving the 2009/2010 Appropriations Limit pursuant to Article XIII B, as amended by the Constitution of the State of California.

A proposal to adopt the following resolutions: (1) approving the fiscal year 2009-2010 Operating Budget and the (2) fiscal year 2009-2014 Five-Year Capital Improvement Budget was presented. Finance Director Jim Goins gave an overview. Councilmember Butt recused himself from discussion on this item because Chevron is one of his firm's clients and he left the meeting at 1:00 a.m. ***On motion of Councilmember Viramontes, seconded by Councilmember Rogers extended the meeting 15 minutes by the unanimous vote of the Council.*** Councilmember Viramontes recommended that \$496,000 be placed back into the 2009/2010 budget in order to go forward into the fiscal year. A motion was made by Councilmember Viramontes, seconded by Councilmember Bates to approve the budget with the correction of the Office of Neighborhood Safety, assuring that they have General Fund commitment, restoration of the current Chevron funds, and direct staff to present proposals to the Council on what the City will do if funds from Chevron in the amount of \$5 million are lost in the next 30 days. Vice Mayor Lopez offered a friendly amendment to direct staff to take the State take away from the reserve to reduce the reserve from 15 percent to 11 percent. The amendment was accepted. Corky Booze gave comments on this item. ***On motion of Councilmember Rogers, seconded by Councilmember Viramontes extended the meeting for 20 minutes with Councilmember Bates voting***

**Noe.** Naomi Williams gave comments on this item. The city manager stated the Southside Substation is not in the budget because it is a \$900,000 item. The finance director stated he would add the Southside substation to the CIP list. The city manager stated, for the record, that funding the Southside Substation would be very difficult. Councilmember Viramontes amended her motion to include the Southside Substation to the CIP list and placed on the checklist for mid-year review. Kevin Hampton and Tamara Walker chose not to speak on the item. A friendly amendment was offered by Vice Mayor Lopez to have the Southside Substation issue resolved in the first quarter of the fiscal year. The amendment was accepted. Councilmember Bates offered a friendly amendment to direct staff to look at reductions in design of the Southside Substation. The motion pass and **Resolution No. 54-09** was adopted by the following vote: **Ayes:** Councilmembers Bates, Ritterman, Rogers, Viramontes, Vice Mayor Lopez, and Mayor McLaughlin. **Noes:** None. **Abstentions:** None. **Absent:** Councilmember Butt.

\*-Adopted **Ordinance No. 14-09** amending the Trespassing Ordinance to empower businesses to prohibit unwanted persons from returning to their establishments for a period of up to one year when specific criteria have been met.

\*-Adopted **Ordinance No. 15-09** repealing Richmond Municipal Code Chapters 13.08 through 13.36 and adopting a new Chapter 13.08 regarding appeals and remedies for tax and fee disputes.

\*-Approved appointment of Councilmember Rogers as representative and Vice Mayor Lopez as alternate to ABAG General Assembly for 2009.

\*-Adopted **Resolution No. 57-09** authorizing the City Manager to submit an application for the expenditure of the formula-allocated Federal Energy Efficiency and Conservation Block Grant funds in the amount of \$955,100 for the approximate period from August 1, 2009, through July 31, 2012.

\*-Approved a fourth amendment to the Glen Price Group contract to provide grant seeking and proposal writing services to City departments increasing the not-to-exceed cost by \$95,000 for a total cost of \$576,000, and extending the term by 12 months through June 2010.

\*-Approved a contract with the Tioga Group, Inc. (Tioga) in an amount not to exceed \$35,000 to prepare a study for review by San Francisco Bay Conservation and Development Commission (BCDC) in consideration of issuing a permit to the Port of Richmond for the Honda Port of Entry project at the Point Potrero Marine Terminal.

\*-Adopted **Ordinance No. 16-09** enacting local eviction control on foreclosed property by prohibiting eviction of residential tenants from rental units during the period the unit is subject to sale under the power of sale of a deed of trust or foreclosure, except as authorized by ordinance.

A proposed 10-month contract with Nichols Consulting Engineering to produce a complete and accurate storm drain geographic network to support infrastructure planning, pollutant load assessments, and hazard mitigation in an amount not to exceed \$693,680 was presented. On motion of Councilmember Bates, seconded by Councilmember Viramontes approved a 10-month contract with Nichols Consulting Engineering by the unanimous vote of the Council. **Councilmember Butt was absent.**

A proposal for the purchase of four trucks for the Parks and Landscape Division that will replace existing aged and worn vehicles presently in Richmond's fleet, in an amount not to exceed \$148,000 was presented. City Manager Bill Lindsay gave an overview of the item. On motion of Councilmember Viramontes, seconded by Councilmember Rogers approved the purchase of four trucks for the Parks and Landscape Division by the unanimous vote of the Council. **Councilmember Butt was absent.**

## **OPEN FORUM FOR PUBLIC COMMENT**

Simms Thompson thanked City staff for taking care of the grass along Hoffman Boulevard between South 30<sup>th</sup> Street and South 34<sup>th</sup> Street. He also discussed the painting of graffiti throughout the City and the high grass off Knox freeway. He also discussed the street lights that are out throughout the City.

Julie Eichorn announced the Healthy Heart Women's Conference to be held on Saturday, June 27, 2009, 8:15 a.m. to 3:30 p.m. at the El Cerrito Community Center. Anyone interested should call (888) 325-7773, ext 5 for more information.

Jim Jenkins stated the Civic Center looks wonderful. He also asked that the City Council not let the California State Governor raid the City's funds.

Burgundie Spears invited everyone to attend the Healthy Heart Women's Conference to be held on Saturday, June 27, 2009, 8:15 a.m. to 3:30 p.m. at the El Cerrito Community Center, 7007 Moeser Lane, El Cerrito, CA 94530.

Corky Booze thanked Councilmember Viramontes for spending time at the Greenway and listening and speaking with the community to address issues.

Jackie Thompson requested the City of Richmond assist in addressing the trash located at the backyard of the National Guard building. She also stated that the shootings at the corner of Cutting Boulevard and Stege Avenue are getting out of control.

Eleanor Thompson stated that you can relocate a person or move a body, but the mind has to change in order to reduce the violence in the City of Richmond.

Naomi Williams invited citizens of Richmond to join the West County Alcohol Policy Working Group (WCAPWG) “a group of concerned citizens that work with ABC and law enforcement to enforce and improve alcohol policies in West Contra Costa County.”

## **RESOLUTIONS**

A proposed a resolution to support and maintain Adult Education and English as a Second Language Programs in the West Contra Costa Unified School District. On motion of Mayor McLaughlin, seconded by Councilmember Rogers adopted **Resolution No. 58-09** by the unanimous vote of the Council.

A proposed resolution placing driver's license checkpoints as a low priority for the Richmond Police Department was presented. Councilmember Ritterman gave an overview of the item. Speakers were: Toni Favila, Kristen Pursley, Jim Jenkins, Raul Ramirez, Antonio Medrano, Jerome Smith, Blanca Hernandez, Jovanka Beckles, Andre Soto, Juan Reardon, Father Ramiro Flores, Jessica Montiel, Eduardo Martinez, Miguel Robles, Cecilia Ornelas, Tania Pulido, Anamaria Loya, Phil Mehas, Eleanor Thompson, Sheryl Lane, and Roberto Reyes. Chief Chris Magnus spoke on this item. Officer Joey Slummer spoke on this item. Following discussion, a motion was made by Councilmember Viramontes, seconded by Councilmember Ritterman to adopt the resolution. Councilmember Rogers offered a friendly amendment to direct Police Chief Magnus to: (1) change the current practice and do higher proportions of dui checkpoints, and (2) stops are done randomly throughout the city and not mainly on main streets. The amendment was not accepted. A substitution motion was made by Councilmember Rogers to adopt resolution with following changes: (1) direct chief to institute a proportionately larger numbers of dui stops and less of the driver license check points, and (2) Do driver license checkpoints in randomly geographic locations throughout the City. The substitute motion failed for lack of a second. The original motion passed and **Resolution No. 59-09** was adopted by the following

vote: **Ayes:** Councilmembers Viramontes, Ritterman, Vice Mayor Lopez, and Mayor McLaughlin. **Noes:** Councilmember Bates. **Abstentions:** Councilmembers Butt and Rogers. **Absent:** None.

A proposed resolution in support of efforts to exclude Interstate 80 in Contra Costa County for express lane consideration if Assembly Bill 74 (TORRICO) is not modified to include West Contra Costa Transportation Advisory Committee (WCCTAC) proposed amendments and to direct staff to forward this resolution to WCCTAC for their use in lobbying Senate legislators to exclude I-80 from the Network as appropriate was presented. Councilmember Viramontes gave an overview of the item. Following discussion, on motion of Councilmember Viramontes, seconded by Councilmember Butt adopted **Resolution No. 60-09** by the unanimous vote of the Council.

A proposed resolution in support of Youth of Promise - A Mentoring Program in West Contra Costa County and encourage volunteerism through mentorships to assist at-risk youth in the City of Richmond was presented. Vice Mayor Lopez gave an overview of the item. A motion was made by Vice Mayor Lopez, seconded by Councilmember Rogers. Tony Thurmond gave comments. The motion passed and **Resolution No. 61-09** was adopted by the unanimous vote of the Council. (*Councilmember Butt was absent*).

A proposed resolution amending the City Council Rules of Procedure and Order to: (1) change the starting and ending times of meetings; (2) alter the order of business; (3) consolidate City Council, Redevelopment Agency Board and other meetings; (4) limit the ability of members of the public to remove items from the Consent Calendar; and (5) make related changes to facilitate completing Council and Board business in a timely fashion was presented. City Attorney Randy Riddle gave comments on this item. Jerome Smith, Jackie Thompson, Corky Booze,

and Naomi Williams spoke on this item. Following discussion, a motion was made by Councilmember Rogers, seconded by Councilmember Bates to approve the item as written by the city attorney including approving the Consent Calendar at 6:30p.m., setting a time certain at 7:00 p.m. for action items, and directing the city attorney to draft a resolution with appropriate language. Vice Mayor Lopez offered a friendly amendment to modify the Open forum description to reflect the changes that citizens that agree with Consent Calendar items may speak on these items under Open Forum. Councilmember Rogers and Bates accepted the amendment. Discussion continued and a substitute motion was made by Councilmember Viramontes to refer this item to the Administrative Finance Committee for further review and bring it back to the Council when the item more complete. Discussion ensued. The city attorney confirmed that all changes that are reflected in the current draft will be adopted at the current meeting and the additional changes will come back to the Council for approval at the next meeting. He also confirmed that if the resolution was approved, the next Council Meeting would start at 6:30 p.m. The motion failed by the following vote: **Ayes:** Councilmembers Bates, Rogers, and Vice Mayor Lopez. **Noes:** Mayor McLaughlin. **Abstentions:** Councilmembers Butt, Ritterman, and Viramontes. **Absent:** None. A motion was made by Councilmember Rogers, seconded by Vice Mayor Lopez to approve the item and the above mentioned changes with the exception of leaving the public's right to remove items from the Consent Calendar. The motion failed by the following vote: **Ayes:** Councilmembers Ritterman, Rogers, and Vice Mayor Lopez. **Noes:** Councilmember Bates. **Abstentions:** Butt, Viramontes, and Mayor McLaughlin. **Absent:** None.

*On motion of Councilmember Viramontes, seconded by Councilmember extended the meeting to 12:30 a.m. with Councilmembers Bates, Butt, and Vice Mayor Lopez voting Noe.*

## **ORDINANCES**

**Withdrew from the agenda** an ordinance (first reading) adding Richmond Municipal Code Chapter 3.21 (Design Review Board) and revising Richmond Municipal Code Section 15.04.930 regarding design review criteria, processing and procedures.

**Continued to June 23, 2009**, an ordinance (first reading) establishing regulations for land use related to biodiesel facilities in the City of Richmond.

## **COUNCIL AS A WHOLE**

**Continued to June 23, 2009**, in the matter to receive a report and direct staff regarding the status of oil and gas pipeline franchises in the City of Richmond, including but not limited to the collection of fees and potential adoption of new legislation governing the franchise process.

**Continued to July 7, 2009, in the matter to accept** a report containing a matrix of foreclosure prevention and mitigation activities and their status.

In the matter to reconsider approval of a consulting service agreement with North^Star; and if reconsideration granted, and approve a consulting service agreement with North^Star in an amount not to exceed \$87,000 to facilitate a community process to identify the City of Richmond's unique brand and develop creative tools such as a new logo, strapline, graphic standards, and messages for use by the community. Following discussion, a motion was made by Councilmember Bates, seconded by

Councilmember Rogers to reconsider. The motion passed by the following vote: **Ayes:** Councilmembers Bates, Rogers, Viramontes, Vice Mayor Lopez, and Mayor McLaughlin. **Noes:** Councilmembers Butt and Ritterman. **Abstentions:** None. **Absent:** None. A motion was made by Councilmember Butt to approve the item. The motion failed for lack of a second. A motion was made by Councilmember Bates, seconded by Councilmember Viramontes to delay the item for further study and evaluation. Jackie Thompson, Corky Booze, and Michelle Itagaki gave comments. *The city clerk announced the time was 12:33 a.m. and a vote was needed to extend. On motion of Councilmember Rogers, seconded by Councilmember Viramontes extended the meeting for 25 minutes with Councilmembers Butt, Ritterman, and Vice Mayor Lopez voting Noe.* Following discussion, the motion to delay passed by the following vote: **Ayes:** Councilmembers Bates, Rogers, Viramontes, Vice Mayor Lopez, and Mayor McLaughlin. **Noes:** Councilmember Butt and Ritterman. **Abstentions:** None. **Absent:** None.

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

Councilmember Rogers reported that he met with Burt Gregory in Seattle regarding Richmond development opportunities and he also met with Gordon Pensky in Seattle regarding greening some of the industrial infrastructure in the City of Richmond.

**ADJOURNMENT**

There being no further business, the meeting adjourned at 1:30 a.m. in memory of Hera lee Johnson, to meet again on Tuesday, June 23, 2009, at 7:00 p.m.

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City Clerk

(SEAL)

Approved:

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Mayor