

RICHMOND, CALIFORNIA, July 7, 2009

The Richmond City Council Evening Open Session was called to order at 5:05 p.m. by Mayor Gayle McLaughlin.

ROLL CALL

Present: Councilmembers, Butt, Ritterman, Rogers, and Mayor McLaughlin. **Absent:** Councilmembers Bates (arrived at 5:06 p.m.), Councilmember Viramontes, Vice Mayor Lopez (arrived after adjourning to Closed Session).

PUBLIC COMMENT

The city clerk announced that the purpose of the Evening 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): Tony Zanotelli vs. City of Richmond

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Subdivision [a] of

Government Code Section 54956.9): Communities for a Better Environment (CBE) vs. City of Richmond; Chevron USA vs. City of Richmond; and Herson vs. City of Richmond

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Significant exposure to litigation pursuant to Subdivision (b) of Government Code Section 54956.9): Three cases

PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code Section 54957.6): City Attorney

PUBLIC EMPLOYEE APPOINTMENT (Government Code Section 54954.5): City Attorney

There were no public speakers.

The Evening Open Session adjourned to Closed Session at 5:06 p.m. The Closed Session adjourned at 7:05 p.m. The Regular City Council Meeting was called to order at 7:18 p.m. by Mayor Gayle McLaughlin who led the Pledge of Allegiance to the Flag.

ROLL CALL

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

STATEMENT OF CONFLICT OF INTEREST

Councilmember Ritterman stated he will recuse himself from discussion on Item E-4. Councilmember Viramontes recused herself from discussion on Item I-3.

AGENDA REVIEW

Removed Items E-13 and E-18, E-20, and E-22 from the Consent Calendar. Item E-22 will be discussed after Open Forum. Item H-4 will be heard after E-22. Councilmember Bates stated he is abstaining on item E-21. Item I-4 was continued to the July 21, 2009, City Council meeting.

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

City Attorney, Randy Riddle, reported that a \$200,000 settlement was approved in the matter of Tony Zanolli vs. City of Richmond.

CONSENT CALENDAR

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

*- Introduced an ordinance establishing the wages, salary, and compensation for the new classification of Business License Field Investigator (Salary Range No. 34: \$3,923 - \$4,559/month).

*- Adopted **Resolution No. 64-09** amending the City of Richmond Classification Plan to add the new classification of Business License Field Investigator.

*- Approved a temporary lease with East Bay Center for the Performing Arts for the City owned building located at 2705 Macdonald Avenue. The lease period is for one year commencing on July 1, 2009, and terminating on June 30, 2010, with two six-month option periods at the discretion of the Landlord.

*- Authorized the City Manager to enter into the First Amendment to Lease with Kaiser Foundation Health Plan, Inc. for the City-owned parking garage located at the southwest corner of Nevin Avenue and 12th Street. The amendment is for a one-year period, with two six-month options to extend at the City's discretion, and will generate \$252,580 in revenue to the City for the one year period. *(Councilmember Ritterman recused himself).*

*- Adopted **Resolution No. 65-09** authorizing placement of liens and special assessments for unpaid garbage collection service fees on County property tax records.

*- Adopted **Ordinance No. 18-09** establishing the wages, salary, and compensation for the classification of Payroll Supervisor (Salary Range No. 057: \$6,218 - \$7,560/month).

*- Adopted **Resolution No. 66-09** amending the City of Richmond's Position Classification Plan to add the new classification of Finance Manager I/II.

*- Introduced an ordinance establishing wages, salary, and compensation for the new classification of Finance Manager I/II (Salary Range 55D: \$5,763 - \$6,966/month and 60D: \$6,488 - \$7,846/month).

*- Approved a contract amendment with Sally Swanson Architects to complete the City-wide accessibility study and produce a transition plan for increasing accessibility where necessary, increasing the contract amount by \$50,000, for a total contract amount of \$207,500, and extending the term expiration to June 30, 2010.

*- Approved the purchase of four additional vans for the Recreation Department from Serramonte Ford, in an amount not to exceed \$88,000.

*- Approved a contract with Meyers Nave Riback Silver & Wilson effective April 1, 2009, to review and revise the Policy Manual for the City of Richmond Police Department in an amount not to exceed \$40,000.

*- Approved a contract with George Hills Company, for a term of six months in an amount not to exceed \$15,000, to provide liability claims adjusting services on an interim basis while the Request for Proposal process to select a permanent adjusting firm is completed.

A contract with BKF Engineers to design a perimeter lighting system for Shields Reid Park in an amount not to exceed \$33,700 was presented. Corky Booze gave comments. Councilmember Bates requested that this item be referred to the Public Safety Committee for further discussion to determine if Mr. Todd Lewis can provide the lighting. City Manager, Bill Lindsay, replied that this contract is for the design phase only, not for the lighting materials. A motion by Councilmember Viramontes, seconded by Councilmember Butt, approved the item, by the following vote: **Ayes:** Councilmembers Butt, Ritterman, Rogers, Viramontes, and Vice Mayor Lopez. **Noes:** Mayor McLaughlin. **Abstentions:** Councilmember Bates. **Absent:** None.

*- Approved a contract with TCS Risk Management Services from January 1, 2009, through December 31, 2011, to collect and analyze Workers' Compensation cost data, provide reports to the City on program cost drivers, and make recommendations on corrective steps to reduce program costs and exposures in an amount not to exceed \$20,000.

*- Adopted **Resolution No. 67-09** approving an insurance program placement for Port Operations of the City of Richmond effective July 1, 2009, in an amount not to exceed \$28,000 for FY 2009-2010, and as adjusted thereafter in accordance with the quoted renewal premium.

*- Approved the purchase of one truck for the Parks and Landscape Division that will replace an existing aged and worn vehicle, in an amount not to exceed \$43,000.

*- Approved a contract with Bragg & Associates to provide ergonomic work station evaluations on an as needed basis in an amount not to exceed \$10,000.

The Fiscal Years 2008-2010 Cash Reserve Policy, Investment Policy, Debt Policy and Swap Policy was presented. Jim Goins, Finance Director, stated that the purpose of the change in the cash reserve policy to be reduced from 15% to 7% is in the event City has a budget shortfall. A motion by Councilmember Viramontes, seconded by Councilmember Rogers, approved the item, by the unanimous vote of the Council. *(A motion by Councilmember Bates, seconded by Councilmember Viramontes, extended the meeting 15 minutes until 12:15 a.m. –(Councilmembers Bates and Butt voted “no”).*

*- Approved the minutes of the Regular Meeting held on May 19, 2009.

In the matter to approve a contract amendment with Moscone, Emblidge & Quadra, LLP, to provide legal advice to the City prosecutor relating to its prosecution of BNSF for blocking crossings, increasing the contract limit by \$18,000, bringing the total amount of the contract to \$27,000 was presented. Councilmember Bates asked how much the fine is for blocking a crossing. City Attorney, Randy Riddle, replied that the fine is \$1,000. Councilmember Bates suggested that the City Attorney’s Office handle this, rather than pay an outside firm. A motion was made by Councilmember Butt, seconded by Councilmember Rogers, passed the item, by the following vote: **Ayes:** Councilmembers Butt, Ritterman, Rogers, Viramontes, and Mayor McLaughlin. **Noes:** Councilmember Bates. **Abstentions:** Vice Mayor Lopez. **Absent:** None.

*- Approved the following re-appointments and appointment: Commission on Aging: Betty Allen, Incumbent, term expiring May 19, 2011; Myrtle Braxton-Ellington, Incumbent, term expiring May 19, 2011; Dr. Shirley Gilbert, Incumbent, term expiring May 19, 2011; D'Emanuel Grosse, Sr., Incumbent, term expiring May 19, 2011; Doris Jones, Incumbent, term expiring May 19, 2011; John Melone, Incumbent, term expiring May 19, 2011; Ella Sewell, Incumbent, term expiring May 19, 2011; Community Development Commission: Brandi Britt, filling vacancy for representative-at-large, term expiring July 7, 2012. *(Councilmember Bates abstained).*

A report containing a matrix of foreclosure prevention and mitigation activities and their status was presented. Steve Duran, Community and Economic Development Director, stated that the matrix provides a way of tracking the progress of the foreclosure prevention and mitigation activities, including code enforcement activities; implementation of SB 1137 fines; possibly adopting additional ordinances or other legal means to address other foreclosure related issues; foreclosure prevention; creation of a land trust; work with banks to develop an affordable revolving loan fund model; update Inclusionary Housing Ordinance; proposal for City to divest from banks that do not cooperate in mortgage renegotiations; and Neighborhood Stabilization Program. Mr. Duran stated that at this time, there are no Housing and Urban Development (HUD) funds to acquire properties. A motion by Mayor McLaughlin, seconded by Councilmember Butt, to accept the report with the inclusion of the suggestions made by the Richmond Equitable Development Initiative (REDI), which are more transparency, creation of the land trust, inclusionary housing ordinance, and divestiture. A substitute motion was made by Councilmember Bates, seconded by Councilmember Viramontes, referred the item to staff who will return to the Council with recommendations for implementation, passed by the following vote: **Ayes:** Councilmembers Bates, Butt, Viramontes, and Vice Mayor Lopez. **Noes:** Mayor McLaughlin. **Abstentions:** Councilmembers Rogers and Ritterman. **Absent:** None.

OPEN FORUM FOR PUBLIC COMMENT

Naomi Williams gave comments in protest of the recent change to the park policy to charge Richmond neighborhood councils the use of the public parks for neighborhood events, which was previously free of charge.

Eleanor Loynd, President of the Richmond Neighborhood Coordinating Council, requested that park use fees not be charged to neighborhood council groups.

Simms Thompson, stated that the City Council needs to do a better job listening hearing and representing the entire community.

Don Gosney gave comments regarding the stoppage of work at the Chevron Refinery and the negative impacts on the community and workers.

Adam Alonzo, representative from Workers United Local 3, gave comments regarding a labor dispute with Aramark and asked the City to send a letter of recommendation encouraging Aramark to settle the dispute.

Jim Jenkins thanked the City for the July 3rd Fireworks. Mr. Jenkins also thanked Rochelle Monk for assisting in the North & East neighborhood clean-up and expressed concern over the recent increase in violence in the North & East neighborhood.

Corky Booze stated that his daughter-in-law's mother, Adele Green Johnson, passed away. Mr. Booze also commented on the killing of George Brown, Jr. and thanked the City for the July 3rd festivities.

Rev. George Brown gave comments regarding the recent murder of his son and asked the community for peace.

Jackie Thompson thanked those involved in getting the National Guard Armory to clean up their lot. Ms. Thompson also reiterated the need for a left turn signal on Cutting Boulevard turning onto Carlson Boulevard.

David Vincent announced that there will be a sneak preview of the work that has been done so far at the Richmond Plunge on Saturday, August 15, 2009 from 11 a.m. to 1 p.m.

Myrtle Braxton-Ellington thanked the City for the 3rd of July festivities and encouraged the City to continue these types of celebrations.

Rock Brown thanked the Police and Fire Departments for all their hard work during City festivals and events. Also, Mr. Brown observed some firefighters handing out stickers to kids at Costco and thanked them for their positive example. He identified them as Angel, Sean, and Erik from Engine Company #64.

Johnny Holmes, representing the Half Steppers Track Team, stated that 30 kids from Richmond have qualified for participation at the Junior Olympics in Des Moines, Iowa. The Half Steppers are also competing at the California Olympics in San Diego and currently do not have any place to practice because the track at Kennedy High School is locked. Mr. Holmes asked for the City's assistance in obtaining \$20,000 so the track team can attend the national competition.

Maria Alegria stated that her organization is offering career advancement academies in construction and automotive technology. The orientation is on July 9th, 16th, 23rd, and 30th. For more information, contact Chuck Carpenter at (925) 435-5428.

The following individuals gave comments regarding the work stop order given to the Richmond Chevron Refinery pertaining to the Hydrogen Renewal Project and the adverse impacts on the community and those the project employs. They also urged the City Council to assist in resolving the issues: Don Gosney, Jim Jacobs, Greg Feere, Tom Baca, Heliodoro Perez, Clay Sutterfield, Harpreet Sandhu, Johnny Gallon, Richard Drury, Kimberly Graham, Darrell Branch, Louis Thomas, Daryl Hardy, Rev. George Brown, Dennis Roos, Alex Dominguez, and Rick Alcaraz.

RESOLUTIONS

A proposed resolution of the City Council of the City of Richmond directing the City Of Richmond Building Division to enforce the 2008 version of the California Code Of Regulations Title 24, Part 6 Building Energy Efficiency Standards. Joe Light, Senior Planner, stated that The Energy Commission expressed concerns that the City of Richmond's proposed Ordinance would provide the City's building staff with the authority to forgo enforcement of the State's energy efficiency standards. The Energy Commission requested that the City adopt a resolution affirming the City's commitment to apply the State's energy efficiency standards when reviewing all building permit applications. A motion by Councilmember Viramontes, seconded by Councilmember Butt, adopted **Resolution No. 68-09**, by the following vote: **Ayes:** Councilmember Butt, Ritterman, Rogers, Viramontes, Vice Mayor Lopez, and Mayor McLaughlin. **Noes:** None. **Abstention:** None. **Absent:** Councilmember Bates

ORDINANCES

A proposed urgency ordinance repealing the City's existing sign ordinance (Chapter 15.06 of the Municipal Code), placing a temporary, 120-day moratorium on new permanent signs and allowing temporary signs, and DIRECT staff to develop new, permanent sign regulations. Randy Riddle, City Attorney, stated that the sign ordinance has been challenged in court on grounds that portions of the ordinance allegedly violates the First Amendment. Sims Thompson gave comments. A motion by Councilmember Viramontes,

seconded by Councilmember Rogers, adopted **Ordinance No. 19-09**, by the unanimous vote of the Council.

A proposed ordinance amending Richmond Municipal Code Chapter 15.04 of the Zoning Ordinance to address biodiesel related land uses in the City of Richmond was presented by Richard Mitchell, Planning Director, and Kieron Slaughter, Planner. Mr. Mitchell stated that the City's current Zoning Ordinance does not address issues related to biodiesel production, distribution, storage and facility siting, nor does it provide clear, consistent, and uniform guidance for the design of biodiesel facilities. Katrinka Ruk, gave comments. Mr. Slaughter indicated that some of the areas that would allow biodiesel facilities would be in the north west side of the Richmond Parkway, Point Pinole area, southwest portions of the City, northern parts of the City, and parts of the Port area. Councilmember Viramontes stated that the biodiesel that would be permitted for production in the City be produced from products other than corn in order that biodiesel production not affect the food stock. A motion by Councilmember Butt, seconded by Councilmember Ritterman, said ordinance received first reading and was laid over two weeks for second reading, by the unanimous vote of the Council.

A proposed ordinance adding Chapter 9.62 to the Richmond Municipal Code instituting a commuter benefit program within the City of Richmond for employers who have ten or more employees working within the City was presented. Councilmember Ritterman gave an overview of the matter. Under the proposed program, employers with 10 or more employees must offer employees one of three commuter benefit programs: (1) pre-tax election, (2) employer paid benefit, or (3) employer provided transit. Each program will lower employers tax burden by lowering taxable payroll, and will provide a financial incentive for employees to commute via public transportation, vanpool, or bicycle, all of which reduce vehicle miles traveled, air pollution, and greenhouse gas emissions. Linda Young, Rod Lee, and Stuart Baker gave comments. Discussion ensued. Councilmember Rogers requested that clarification be made to the covered employees clause which indicates that this benefit program apply to employers that work within the City's boundaries even if their business is located outside of Richmond and also requested that the City Manager study what the best way would be to inform businesses of this commuter benefit requirement. A motion by Councilmember Ritterman, seconded by Councilmember Rogers, said ordinance received first reading and was laid over two weeks for second reading, by the unanimous vote of the Council.

A proposed ordinance was introduced to add Chapter 9.57 to the Richmond Municipal Code regarding the prohibition of smoking in and around multi-unit residences within the City of Richmond. Councilmember Ritterman gave an overview of the matter. The following individuals gave comments: William Browning, Diana Silva, Arthur Hatchett, Julie Waters, Serena Chen, Ralph Morales, Jaime Jenett, Dr. Valerie Yerger, and Theresa Karr. Councilmember Bates stated that the proposed ordinance invades personal rights. The ordinance would not go into effect until January 1, 2011. Councilmember Lopez stated that noticing and advertising of this ordinance be made to landlords and tenants as soon as possible. Councilmember Lopez requested a friendly amendment to direct staff to inform owners or landlords of multi-unit residences about the ordinance and that landlords inform their tenants as soon as possible. Randy Riddle, City Attorney, replied that notification to tenants can be given 6 months prior to the ordinance effective date of January 1, 2011. Councilmember Rogers requested that new tenants are also notified of the ordinance. A motion by Councilmember Ritterman, seconded by Councilmember Rogers, said ordinance received first reading and was laid over two weeks for second reading.

COUNCIL AS A WHOLE

A report on the status of pipeline franchises; (2) Direct staff to finalize for introduction an ordinance to govern the process for awarding and managing pipeline franchises, and to begin negotiating renewal of franchise agreements based on the principles identified in the proposed ordinance; and (3) Authorize the City Attorney, after interviewing at least three qualified firms, to contract with a firm to assist in franchise renewal negotiations was presented by Randy Riddle, City Attorney, who stated that the objectives regarding franchise agreements are to improve the future administration of City Franchise Agreements; catalogue and determine the status of all Richmond's franchise agreements and renew expired franchise agreements. Mike Sakamoto, consultant, detailed the research he completed and stated that he discovered very minimal compensation due to the City. Simms Thompson gave comments. Councilmember Viramontes suggested that pipeline location information be included in the City's Emergency Operations Manual. A motion was made by Councilmember Butt, seconded by Councilmember Viramontes, approved by the unanimous vote of the Council.

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) change how items are removed from the consent calendar; and make related changes to facilitate completing Council and Board business in a timely fashion was presented. The following individuals gave comments: Jovanka Beckles, Jim Jenkins, Jackie Thompson, Janie Anker, and Corky Booze. A motion by Councilmember Rogers, seconded by Councilmember Viramontes, approved the consolidation of City Council, Redevelopment Agency, and other meetings, by the unanimous vote of the Council. A motion by Councilmember Bates, seconded by Councilmember Butt, to adjust the City Council meeting times from 6:30 p.m. to 11:00 p.m., passed by the following vote: **Ayes:** Councilmember Bates, Butt, Ritterman, Rogers, Viramontes, and Vice Mayor Lopez. **Noes:** None. **Abstention:** Mayor McLaughlin. **Absent:** None. A motion by Councilmember Bates, seconded by Councilmember Viramontes, approved the alteration of the order of business, passed by the unanimous vote of the Council. Councilmember Bates stated that attorneys and consultants that are being paid to attend Council meetings, be prioritized to be discussed sooner on the agenda. Bill Lindsay, City Manager, replied that this is already considered when the agenda is being discussed during the agenda setting meeting. A motion was made by Councilmember Viramontes, seconded by Councilmember Butt that members of the public only be allowed to remove items from the consent calendar if they oppose it and if they are in support of the item, they can address it during Open Forum. If the item is removed by the Council, the public may sign up to speak whether they oppose or support the item, failed by the following vote: **Ayes:** Councilmember Butt, Ritterman, and Viramontes. **Noes:** Councilmember Bates. **Abstention:** Councilmember Rogers, Vice Mayor Lopez, and Mayor McLaughlin. **Absent:** None.

A proposed endorsement of the California Fair Elections Act Initiative, was presented by Councilmember Rogers, who stated that this would seek the creation of a voluntary pilot program for publicly financing the Secretary of State's races in 2014 and 2018. The funding for this program would be derived from bringing California lobbyist fees up to par with the rest of the nation. Corky Booze gave comments. A motion by Councilmember Rogers, seconded by Councilmember Ritterman, approved the item by the following vote: **Ayes:** Councilmember Butt, Ritterman, Rogers, and Vice Mayor Lopez, and Mayor McLaughlin. **Noes:** None. **Abstention:** None. **Absent:** Councilmember Bates. (*Councilmember Bates stated he would like to vote "no" and Councilmember Viramontes recused herself*).

A proposed designation of a voting delegate and an alternate voting delegate to represent the City of Richmond at the Annual Business Meeting of the League of California Cities' Annual Conference September 16-18, 2009 was presented. A motion by Councilmember Butt, seconded by Councilmember Viramontes, Vice Mayor Lopez will be the voting member and Councilmember Viramontes will be the alternate, passed by the unanimous vote of the Council.

Discussion and direction to staff to create an ARRA delegation to meet with Congressional representatives, White House and Federal agency officials either or both in Washington, D.C. and the Bay Area was presented by Vice Mayor Lopez, who stated that the purpose of the delegation is to learn directly from federal agencies about the criteria for reviewing competitive-based grants and educating key federal officials about the needs and priorities of the City of Richmond. Councilmembers interested in forming part of the delegation will contact staff. Councilmember Bates stated that the City's lobbyist in Washington can schedule meeting dates with the representatives' staff persons. A motion made by Vice Mayor Lopez, seconded by Councilmember Bates, passed by the unanimous vote of the Council.

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

Councilmember Rogers stated that he met with David Cantor of Cal-Star regarding a grant that Richmond has with Cal-Star.

Vice Mayor Lopez stated that two weeks ago she attended the National Association of Latino Elected Officials.

Councilmember Butt stated he testified at a meeting with four California department heads about potential grants to cities related to AB375.

Councilmember Viramontes stated that there is a funeral/memorial fund for the Vargas family in the name of Guadalupe Luerano at the Hilltop Mall Bank of America branch. There is also a fund at Bank of America and Mechanics Bank for Mr. Cisneros, who was recently murdered.

ADJOURNMENT

There being no further business, the meeting adjourned at 12:15 a.m. in memory of George Brown, Jr., Lowell Sewell, husband of Commission on Aging Commissioner, Ella Sewell; Ruby Parham, Mother of City employee Carol Geegan; Michael Jackson, and Mr. Cisneros, to meet again on Tuesday, July 21, 2009, at 6:30 p.m.

City Clerk

(SEAL)

Approved:

Mayor