

RICHMOND, CALIFORNIA, February 28, 2006

The Regular Meeting of the Richmond City Council was called to order at 7:01 p.m., by Mayor Irma L. Anderson, who led the Pledge of Allegiance to the Flag.

ROLL CALL

Present: Councilmembers Butt, Bates, Thurmond, Marquez, Griffin, Rogers, and Mayor Anderson. **Absent:** Councilmembers, McLaughlin, Rogers (arrived late as indicated in these minutes), and Viramontes.

STATEMENT OF CONFLICT OF INTEREST

None.

AGENDA REVIEW

Items **G-2, G-4, G-8, G-11, and G-14** were removed from the Consent calendar for discussion.

Item **J-1**, a presentation by Supervisor John Gioia on the County Access Defibrillator Program was moved forward on the agenda to be heard following agenda item **F-3**.

Item **J-2**, dates for the Council Strategic Planning Session, was withdrawn from the agenda.

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

John Eastman, City Attorney, made the following report:

Joint Richmond Community Redevelopment Agency/City Council

**CC-1. CONFERENCE WITH LEGAL COUNSEL:
EXISTING LITIGATION**

One case: Swinerton Builders vs. City of Richmond, Richmond Community Redevelopment Agency, Assembly Plant partners, and Conversion Management Associates, Incorporated: Confidential direction given to legal counsel.

Richmond Community Redevelopment Agency

**CC-2. CONFERENCE WITH REAL PROPERTY
NEGOTIATOR**

Property: Various surplus properties: Withdrawn from the agenda.

City Council

CC-3. CONFERENCE WITH LEGAL COUNSEL: EXISTING LITIGATION

Morgan vs. City of Richmond: Council voted to settle for \$60,000. The vote was as follows: **Ayes:** Councilmembers Bates, Butt, Griffin, Marquez, Rogers, Thurmond, and Mayor Anderson. **Noes:** None. **Did not Participate:** Councilmembers McLaughlin and Viramontes.

Harris vs. City of Richmond: Council voted to settle for \$50,000. **Ayes:** Councilmembers Bates, Butt, Griffin, Marquez, Rogers, Thurmond, and Mayor Anderson. **Noes:** None. **Did not Participate:** Councilmembers McLaughlin and Viramontes.

McElwain vs. City of Richmond: Council voted to settle for \$76,707.50. **Ayes:** Councilmembers Bates, Butt, Griffin, Marquez, Rogers, Thurmond, and Mayor Anderson. **Noes:** None. **Did not Participate:** Councilmembers McLaughlin and Viramontes.

Nieva/Casum vs. City of Richmond: Council voted to settle for \$17,500. **Ayes:** Councilmembers Bates, Butt, Griffin, Marquez, Rogers, Thurmond, and Mayor Anderson. **Noes:** None. **Did not Participate:** Councilmembers McLaughlin and Viramontes.

CC-4. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Property: Point Molate: City Council gave direction to place the first amendment to land disposition agreement on the March 7, 2006 City Council agenda.

CC-5. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Property: Plunge Property (Point Richmond):
Confidential direction given to staff.

CC-6. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: Confidential and Investigative Appeals Officer
Confidential review was conducted.

CC-7. CONFERENCE WITH LEGAL COUNSEL: EXISTING LITIGATION

One Case: Tanzel vs. City of Richmond: Confidential direction was given to legal counsel. **Ayes:** Councilmembers Bates, Butt, Griffin, Marquez, Rogers, Thurmond, and Mayor Anderson. **Noes:** None. **Did not Participate:** Councilmembers McLaughlin and Viramontes.

OPEN FORUM FOR PUBLIC COMMENT

Bob Collins gave comments about the unsafe conditions and costs to tenants for services in the Westridge at Hilltop Apartments.

Guy Saunders gave comments regarding thefts that have occurred at the Westridge at Hilltop Apartments.

Nhang Luong, West County Senior Coalition, gave comments regarding statistics pertaining to senior citizens in Richmond and Contra Costa County. She advocated for a Senior Liaison position in the City of Richmond to address the needs of seniors.

Arnie Kasendorf, Chairperson, Commission on Aging; Member of the West County Coalition on Aging, gave comments regarding the decline in services for senior citizens and requested that an Office of Senior Liaison be created.

Beverly Wallace, West County Senior Coalition, gave comments regarding senior citizen issues and reduction in services and requested the creation of a Senior Liaison Coordinator in the City of Richmond.

Mayor Genoveva Calloway, City of San Pablo, gave comments regarding a concert/dance performance she attended at the Richmond Auditorium and thinks the facility has great potential and should be marketed more.

Corky Booze gave comments regarding the passing of Rev. Charles Newsom and the Richmond Steelers fundraiser.

Karen Jones gave comments regarding a plaque with an incorrect date given to her in honor of her son who was murdered. The correct date is February 10, 2006. She also commented that there have been no leads on her son's murderer(s).

Mike Ali, gave comments and invited everyone to a program that will be held on Monday, March 1, 2006 at 6 p.m. in the Council Chambers to honor the Police Explorer Scouts, the Vipers, Chaplains, and volunteers for the 2005 contributions made to the community to assist the Richmond Police Department. He also gave comments regarding the unsafe conditions of the Westridge at Hilltop Apartments and said an investigation should be conducted.

Debbi Landshoff invited everyone to participate in a tree planting event to be held on Saturday, March 18, 2006 at 8:30 a.m. starting at Cutting Boulevard and 17th Street and move to Cutting Boulevard and 22nd Street.

PRESENTATIONS, PROCLAMATIONS, AND COMMENDATIONS

Sandra Thompson, Acting City Clerk, read the proclamation commending the Richmond Police Department's Police Chaplains Program Ten Year Anniversary. Mayor Anderson presented the proclamation to Rev. Brown.

Sandra Thompson, Acting City Clerk, read the proclamation recognizing February as Black History Month. Corky Booze commented that the proclamation should have been placed on the agenda sooner.

Martha Lee, Superintendent of the Rosie the Riveter WWII Homefront National Historical Park presented a PowerPoint of the relocation of the Whirley Crane to Shipyard #3. Councilmember Butt and Mayor Anderson thanked all of the participants and presented certificates. Mike Ali gave comments.

Supervisor John Gioia gave comments regarding the County Access Defibrillator Program. Paramedics gave a demonstration on how the defibrillator works. Suggestions will be given to Supervisor Gioia as to what locations within the City should have the defibrillators. Councilmember Bates asked what the cost is and was told that the defibrillators range in price from \$900 to \$3000.

CONSENT CALENDAR

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

*-Authorized issuance of a Request For Proposals (RFP) for the Richmond Public Library to contract with a consultant to conduct a Library Needs Assessment, Develop a Plan of Service for the Library, and Develop a Library Building Plan for construction of a new main library.

A proposed contract to Republic Electric, Incorporated, the lowest bidder, for the 23rd Street and Bissell Avenue traffic Signal Modification was discussed. The contract amount is \$41,800. Naomi Williams gave comments. No discussion. On motion of Councilmember Marquez, seconded by Councilmember Thurmond to approve the contract by the unanimous vote of the Council.

*-Awarded a design contract to Marcy Wong & Donn Logan Architects, the lowest bidder, for the Martin Luther King, Jr. Park and Community Center. The amount of the contract shall not exceed \$277,000. Status report on Martin Luther King, Jr. Park and Community Center included.

*Approved reappointments and appointments to the following Boards and Commissions: **(1) Recreation & Parks Commission: James Jenkins and E.J. Shalaby; (2) Housing Advisory Board: Don Ryder, Incumbent; and Toni Allison Roach; (3) Arts & Culture Commission: Dwane O. Parish; (4) Richmond Revolving Loan Fund: Billy G. Turner; (5) Youth Commission: Tina Westbrook; and (6) Police Commission: Glen Stephenson.**

*Approved the City's Investment Policy and Debt Policy for Fiscal year 2005-2006.

A proposed construction contract to Bay Cities Paving and Grading, Incorporated, the lowest bidder, for Phase I of the Central Richmond Greenway Bicycle/Pedestrian Trail was presented. The amount of the contract is \$2,206,238.87. Rich Davidson, City Engineer gave a report. A bid analysis report was submitted to the Council and Bay Cities was the lowest responsive bidder and meets DBE goal at 14.2%, which is set by the State. Councilmember Bates asked if there was any local participation. Mr. Davidson replied that because this was a State funded project, the State's DBE goals superseded the City's goals. There was only one local subcontractor from the City of Richmond.

The following individuals gave comments: Corky Booze, Dorothy Fox, Rhonda Harris, Kiana Riley, Gary Bell, and Mark Holmes. Councilmember Bates and Griffin stated they will not support the contract. Councilmember Griffin suggested postponing the vote for one or two weeks to ascertain whether Bay Cities would be willing to employ Richmond residents. Mr. Davidson replied that because there is Federal money involved, the City of Richmond's local business ordinance does not apply to this project. Councilmember Butt stated that the City does not have discretion to require that local businesses are used because it is partly federally funded. If this item does not pass tonight, grant funding will be lost. Councilmember Thurmond asked why the general contractor rejected the lowest bid on the subcontractor without establishing any criteria. Mr. Davidson replied that this information was not required as part of the bid submittal. Furthermore, if this item is not approved tonight, funding will be lost as of March 1, 2006. Councilmember Thurmond expressed disappointment that this matter has come to the Council at this late time. On motion of Councilmember Marquez, seconded by Councilmember Butt to approve the contract by the following vote: **Ayes:** Councilmembers Butt, Marquez, Rogers, Thurmond, and Mayor Anderson. **Noes:** Councilmembers, Bates, and Griffin. **Abstentions:** None. **Absent:** Councilmembers McLaughlin and Viramontes.

*Approved the City's Investment Policy and Debt Policy for Fiscal Year 2005-2006.

*Adopted **Resolution No. 14-06** authorizing the filing of a grant application in the amount of \$100,000 with the State of California's Department of Transportation for the allocation of FTA Section 5310 Vehicle Replacement funds for Paratransit Services for Fiscal Year 2006-07.

A proposed Resolution supporting Ferry Service on the Ford Peninsula and directing staff to develop a strategy, a timeline and a budget to accomplish this goal was presented. Richard Mitchell, Director of Planning & Building, gave an overview of the matter. Mr. Mitchell stated that the Metropolitan Transportation Commission (MTC) passed Resolution 3434, which laid out policy for transit oriented developments. The policy set out certain criteria to determine where funds would be allocated for various developments related to transit. In order for the City to establish a ferry service location and to receive funding, the City needs to make a commitment to ongoing and increasing development densities around transit stations. Staff will return to the Council with a plan to meet the requirements necessary. The proposed ferry terminal location is planned at the foot of Harbor Way. The following individuals spoke on the matter: Mike Ali, John Gioia, Eddie Orton, Richard Poe and Steve Castleberry. On motion of Councilmember Bates, seconded by Councilmember Marquez to adopt **Resolution No. 15-06** by the following vote: **Ayes:** Councilmembers Bates, Butt, Griffin, Marquez, Rogers, Thurmond, and Mayor Anderson. **Noes:** None. **Abstentions:** None. **Absent:** Councilmembers McLaughlin and Viramontes.

*Adopted **Resolution No. 16-06** authorizing installation of a disabled parking space at 120 16th Street.

*Adopted **Resolution No. 17-06** authorizing filing of a claim with the Contra Costa Transportation Authority for allocation of Measure C Funds for Paratransit Services for Fiscal Year 2006/07 in the amount of \$474,433.

A proposed resolution authorizing submittal of Measure C 2002 and 2003 Growth Management Program Compliance Checklist to the Contra Costa Transportation Authority for allocation of Fiscal Years 2003 and 2004 Local Street Maintenance and Improvement Funds, with requested information including a Letter of Compliance from the State Department of Housing and Community Development and an adopted Richmond Housing Element Planning 2006 was presented. Corky Booze spoke on the matter. Councilmember Rogers asked what measures will be taken in order to avoid the late collection of funding in the future. City Manager, Bill Lindsay, replied that part of the delay was due to the length of time it took for the Housing Element to be completed. This should be scheduled on a calendar year basis and there is now long term agenda planning in place in order to ensure that things such as this do not recur. On motion of Councilmember Marquez, seconded by Councilmember Thurmond approved **Resolution No. 18-06** by the following vote: **Ayes:** Councilmembers Bates, Butt, Marquez, Rogers, Thurmond, and Mayor Anderson. **Noes:** None. **Abstentions:** None. **Absent:** Councilmembers Griffin, McLaughlin and Viramontes.

*-Adopted **Ordinance No. 09-06 N.S.** amending the Richmond municipal Code (RMC) Sections 6.02.130 and 6.02.170 to limit the allowable time to complete a permitted building project and to provide for appeals therefrom.

*-Approved the minutes of the Evening Session held on February 7, 2006.

A one-year contract with the Glen Price Group for providing grant seeking and proposal writing services in a new city-wide grant securing program at a minimum of \$110,000 depending on the number and type of grants the City decides to pursue. Mike Ali spoke on the matter. Funding will come initially from the City Manager's Office budget. There is a one-time fee, thereafter; there is a monthly subscription cost of \$2,500 per month. On motion of Councilmember Rogers, seconded by Councilmember Butt to approve the contract by the following vote: **Ayes:** Councilmembers Bates, Butt, Griffin, Marquez, Rogers, Thurmond, and Mayor Anderson. **Noes:** None. **Abstentions:** None. **Absent:** Councilmembers McLaughlin and Viramontes.

PUBLIC HEARINGS

None.

ORDINANCES

A proposed ordinance amending Section 7.04.320 of the Richmond Municipal Code to authorize the Tax Collector to withhold Business Licenses for illegal activity was presented. Mike Ali and Corky Booze spoke on the matter. Richard Mitchell gave an overview of the matter. Councilmember Rogers suggested that the ordinance should be placed in the original ordinance, rather than in the Rules and Regulations section. John Eastman, City Attorney, stated that if this change is made, the ordinance will need to return for another first reading.

Councilmember Bates, seconded by Councilmember Marquez, made a motion that said ordinance receive first reading and be laid over two weeks for second reading. Discussion ensued. A substitute motion was made by Councilmember Rogers, seconded by Councilmember Thurmond for said ordinance to not receive the first reading and have the ordinance reflect that the Rules and Regulations section be included in the Municipal Code by the following vote: **Ayes:** Councilmembers Rogers and Thurmond. **Noes:** Councilmembers Bates, Butt, Griffin, Marquez, and Mayor Anderson. **Abstentions:** None. **Absent:** Councilmembers McLaughlin and Viramontes. Motion failed. On motion by Councilmember Bates, seconded by Councilmember Marquez to adopt the introduction of the ordinance, by the following vote: A substitute motion was made by Councilmember Rogers, seconded by Councilmember Butt for said ordinance to not receive the first reading and have the ordinance come back with the Rules and Regulations section to be included in the Municipal Code by the following vote: **Ayes:** Councilmembers Rogers and Thurmond. **Noes:** Councilmembers Bates, Butt, Griffin, Marquez, and Mayor Anderson. **Abstentions:** None. **Absent:** Councilmembers McLaughlin and Viramontes. A substitute motion was made by Councilmember

A proposed ordinance amending Chapter 12.46 of the Richmond Municipal Code, incorporating new standards of the State Mining and Geology Board was presented. Councilmember Butt gave an overview of the matter. A copy of a letter from the Executive Officer of the State Mining and Geology Board, who has reviewed the draft ordinance, was given to the Council. Once the Council adopts the ordinance, the Executive Officer, will take it to the State Mining and Geology Board and expects that they will approve and certify it as an ordinance that conforms to the State law, giving the City of Richmond authority to act as an enforcement agent for both local and State laws involving mining. Mayor Anderson stated that ordinances need to be written by the City Attorney, according to the Brown Act. John Eastman, City Attorney, replied that the ordinance should be reviewed by the Planning Department for a CEQA determination. Furthermore, if the introduction of the ordinance is adopted, it would not be enforceable without the CEQA determination. The Council can direct staff to return with an ordinance and review under CEQA. The following individuals spoke on the matter: Doug Strauss, representing the Bottoms Family Trust, and Brian Peer, Dutra Corporation. Councilmember Butt stated that the quarries that are located in the City of Richmond are the Chevron Quarry and the Canal Boulevard/Pt. Richmond Quarry. The State Mining and Geology Board has notified the City of Richmond since 1998 that the current ordinance was out of compliance with State law and the State was going to take over regulation of the quarries. Councilmember Butt stated that this matter is a health and safety concern and should be a priority and has been corresponding about this with City staff since October 2005. City Manager, Bill Lindsay, stated that notices have been sent to the owners of the two quarries. One of the letters indicates that the Conditional Use Permit has expired and the other does not have a Conditional Use Permit. No response has been received yet. Councilmember Rogers asked what is being violated by a Councilmember writing an ordinance. City Attorney Eastman replied that per the City Charter, Article 4, Section 3 reads: 'The City Attorney shall prepare all ordinances and contracts whenever required to do so by the Council. On motion of Councilmember Bates, seconded by Councilmember Griffin to direct staff to inspect both quarries and return to the City Council if

there are any violations found and the ordinance will be held to a later date. Discussion ensued. City Attorney, John Eastman, stated that this matter will be discussed on March 7, 2006 closed session as anticipated litigation. Councilmember Rogers asked if it is legally appropriate to direct staff to go out to perform inspections related to allegations of City code violations unless the item is properly placed on the agenda pursuant to the Brown Act. John Eastman, City Attorney, replied that the Brown Act states that any member of the City Council may make a referral to staff. Said ordinance received first reading and was laid over two weeks for second reading by the following vote: **Ayes:** Councilmembers Bates, Butt, Griffin, Marquez, Thurmond, and Mayor Anderson. **Noes:** Councilmember Rogers. **Abstentions:** None. **Absent:** Councilmembers McLaughlin and Viramontes.

A proposed ordinance amending Section 15.04.980.060 of the Richmond Municipal Code to provide for greater certainty on appeals from the Planning Commission and Design Review Board was presented. On motion of Councilmember Griffin, seconded by Councilmember Bates said ordinance received first reading and was laid over two weeks for second reading by the following vote: **Ayes:** Councilmembers Bates, Butt, Griffin, Marquez, Rogers, Thurmond, and Mayor Anderson. **Noes:** None. **Abstentions:** None. **Absent:** Councilmembers McLaughlin and Viramontes.

COUNCIL AS A WHOLE

Continued the matter to approve a date for the **Council Strategic Planning** Session. Mayor Anderson announced that the tentative date is April 11, 2006 and that Councilmembers call her office if there are any conflicts with this date.

COMMUNICATIONS

None.

REPORTS OF OFFICERS: STANDING COMMITTEE REPORTS, REFERRALS TO STAFF, AND GENERAL REPORTS

Reports of Chairpersons of:

Finance Standing Committee: Councilmember Butt stated that a meeting will be convened on Thursday, March 23, 2006 at 9 a.m. The convener will be Councilmember Rogers.

Public Safety Standing Committee: Councilmember Marquez, Chairperson, announced that the committee will meet on Thursday, March 23, 2006.

Rules and Procedures Standing Committee:
No report.

Report from the Mayor: Mayor Anderson stated that she was not able to attend Rev. Newsom's funeral because she was out of the Country on family matters. Announced that the Mayor's Office purchased a table for the Richmond Steelers fundraiser event on March 1, 2006. Mayor Anderson will not be attending, as she will be at the Mayor's Conference.

General Reports from Councilmembers and Staff

Councilmember Bates

Requested that the meeting be adjourned in honor of Pastor Rev. Wilbur Johnson, Easter Hill United Methodist Church.

Councilmember Marquez

Reported that Councilmember McLaughlin, Congressman Miller, and he, attended Rev. Newsom's services on Sunday, February 12th.

Councilmember Rogers

Requested that the City Attorney bring an item back on the City Council agenda that was discussed earlier in closed session. Requested an item be placed on the agenda that would prohibit the City Council from directing staff to investigate possible regulatory issues against persons where the matter has not been agendized as such.

ADJOURNMENT

There being no further business, the meeting adjourned at 10:33 p.m. in memory of Rev. Wilbur Johnson and Mr. Scott, to meet again in one week on March 7, 2006, at 7:00 p.m.

Clerk of the City of Richmond

(SEAL)

Approved:

Mayor

Approved:

City Attorney