

**RICHMOND, CALIFORNIA, January 11,  
2010**

The Special Meeting of the Richmond City Council was called to order at 6:32 p.m. by Mayor Gayle McLaughlin who led the Pledge of Allegiance to the Flag.

**ROLL CALL**

**Present:** Councilmembers, Bates, Butt, Ritterman, Viramontes, and Mayor McLaughlin.  
**Absent:** Vice Mayor Lopez and Councilmember Rogers. (Vice Mayor Lopez and Councilmember Rogers arrived at 6:43 p.m.)

**STATEMENT OF CONFLICT OF INTEREST**

None.

**COUNCIL AS A WHOLE**

In the matter to consider approval of the Third Amendment to the Land Disposition Agreement (LDA) with Upstream Point Molate, LLC extending the closing date for the transaction from January 15, 2010, to March 15, 2010. Janet Schneider, Administrative Chief, stated staff discussed several amendments with Upstream and to complete the discussion, the recommendation on January 5, 2010, was to approve extending the closing date. Gordon Hart, representing Paul, Hastings, outside counsel for the City of Richmond, stated that the LDA does not affect the City of Richmond's ability to approve or disapprove the project. He stated that if the City Council does not approve the project, it will not be obligated to transfer the property to Upstream. Councilmember Viramontes asked if the City of Richmond has the authority to rescind the Tolling Agreement. Mr. Hart stated that there is not a Tolling Agreement. The Tolling language is included in the second amendment to the LDA. He further informed that the City does not have the authority to unilaterally rescind the Tolling Amendment. Councilmember Butt asked staff if they were aware and when did they become aware that the LDA was flawed and would have to be amended. Janet Schneider stated staff was aware approximately one year ago of the need to amend the LDA. Councilmember Butt asked why staff did not

pursue an amendment. Ms. Schneider stated that a number of discussions and negotiations have taken place and the amendment was evolving from the discussions and negotiations. The following individuals gave comments on extending the Agreement to March 15, 2010: Michael Beer, Nina Smith, Charles T. Smith, Jim Levine, Dennis Roos, Kevin Van Buskirk, Corky Booze, Juan Reardon, Paul Doolittle, Tom Hansen, Tarnel Abbott, Devin O'Keefe, Robert Herbert, Lech Naumovich, Juana Janie Anker, Cory Lawrence, Michael Parker, Joan Garrett, John Marquez, Aram Hodess, Don Gosney, and Antown Cloird. A motion was made by Councilmember Bates, seconded by Vice Mayor Lopez to approve the Third Amendment to the LDA, extending the closing date to March 15, 2010. Mayor McLaughlin made a substitute motion, seconded by Councilmember Butt, to direct staff to prepare a letter to Upstream informing them that they are in default, they have not provided bank financial statements for the required time periods and the City of Richmond will go forward with the 60-day period to cure the default and if the default is not cured in 60 days, the Agreement will be terminated. A motion by Councilmember Viramontes to call for the question to terminate debate, seconded by Councilmember Bates, failed by the following vote: **Ayes:** Councilmembers Bates, Viramontes, and Vice Mayor Lopez. **Noes:** Councilmembers Butt, Rogers, Ritterman, and Mayor McLaughlin. **Absent:** None. **Abstentions:** None. Discussion ensued. The substitute motion by Mayor McLaughlin, seconded by Councilmember Butt, to direct staff to send a letter informing Upstream they are in default to provide bank financial statements failed by the following vote: **Ayes:** Councilmember Butt and Mayor McLaughlin. **Noes:** Councilmembers Bates, Rogers, and Vice Mayor Lopez. **Abstentions:** Councilmembers Viramontes and Ritterman. **Absent:** None. Councilmember Rogers offered the following friendly amendment to the original motion: Negotiate with Upstream to clarify which items are solid. There are issues about money, commitment to hire 40% of unemployed Richmond residents through RichmondWORKS. Go through a process that the City Council understands to get the best possible proposal, hear from the public, and make a decision. He stated he would support to continue to get the facts on the table and at some point, if the City Council approves the Environmental Impact Report (EIR), would like to have the best possible proposal presented to the Council. Councilmember Bates stated he would accept the amendment. The original motion by Councilmember Bates, seconded by Vice Mayor

Lopez, to approve the Third Amendment to the LDA, extending the closing date for the transaction from January 15, 2010, to March 15, 2010, passed by the following vote: **Ayes:** Councilmembers Bates, Rogers, Viramontes, and Vice Mayor Lopez. **Noes:** Councilmembers Butt, Ritterman, and Mayor McLaughlin. **Absent:** None. **Abstentions:** None

**ADJOURNMENT**

There being no further business the meeting adjourned at 9:37 p.m.

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City Clerk

(SEAL)

Approved:

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Mayor