

**RICHMOND, CALIFORNIA, December 15,
2009**

The Richmond City Council Evening
Open Session was called to order at 5:06 p.m. by
Councilmember Bates.

ROLL CALL

Present: Councilmembers Bates, Butt,
Ritterman, Rogers, and Mayor McLaughlin.
Absent: Councilmembers Viramontes and Vice
Mayor Lopez.

PUBLIC COMMENT

The acting 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

**CONFERENCE WITH LEGAL COUNSEL -
EXISTING LITIGATION (Subdivision [a] of Government
Code Section 54956.9):** Butrago vs. AT&T Corporation; Citizens
for Eastshore Parks vs. City of Richmond; West County Wastewater
District vs. City of Richmond

**CONFERENCE WITH LEGAL COUNSEL -
ANTICIPATED LITIGATION (Initiation of litigation
pursuant to Subdivision [c] of Government Code Section
54956.9):** Seven Cases

**CONFERENCE WITH LABOR NEGOTIATORS
(Government Code Section 54957.6):** City Designated
Representatives: Bill Lindsay, Leslie Knight, Bruce Soublet,
Lisa Stephenson, and Jack Hughes
Employee Organization or Unrepresented Employees: Locals 21 and
1021

**CONFERENCE WITH REAL PROPERTY
NEGOTIATOR (Government Code Section 54956.8):**
Property: Point Molate (site of former Naval Shipyard Depot)
Agency Negotiators: Bill Lindsay and Janet Schneider
Negotiating Party: Upstream Point Molate LLC
Under Negotiation: Price and Terms of Payment

There were no public speakers.

The Evening Open Session adjourned to
Closed Session at 5:08 p.m. The Closed Session
adjourned at 6:43 p.m.

The Regular Meeting of the Richmond Community
Redevelopment Agency/Richmond City Council was called to
order at 6:44 p.m. by Mayor McLaughlin who led the pledge to
the flag.

RICHMOND CITY COUNCIL

ROLL CALL

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

STATEMENT OF CONFLICT OF INTEREST

Councilmember Butt recused himself from voting on Item H-5.

OPEN FORUM FOR PUBLIC COMMENT

Naomi Williams gave comments regarding recognition awards to Councilmembers Butt, Lopez, and Ritterman for their in-depth work with the alcohol and tobacco policy group.

Harry Singh, requested an update regarding the unsolved Kelsi brothers murder case. Mr. Kelsi submitted a \$10,000 bill for transportation costs incurred by a family member.

David Helvarg stated that Point Molate should remain reserved for recreation and open space.

Tonni Hanna spoke against developing a casino at Point Molate.

Jennifer Diaz-Zamora thanked the City Council for helping her and her neighbors with the PG&E boxes that were being placed in her neighborhood.

Armando Soto gave comments regarding the moratorium on cannabis dispensaries in the city.

AGENDA REVIEW

Item H-8 was continued to the January 5, 2009, City Council meeting. Items H-13 and H-19 were removed from the Consent Calendar. Councilmember Bates abstained on Item H-18. Item M-2 was heldover to a future meeting as a study session. Items M-5, M-1, and M-6 were moved to be heard after approval of the Consent Calendar. Item K-1 was moved to be heard after Item I-2.

PRESENTATIONS, PROCLAMATIONS, AND COMMENDATIONS

A presentation was given by Fire Chief Michael Banks, and Firefighter Luz De Dios, regarding the delivery of the donated surplus fire engine to the Managua, Nicaragua Fire Department. Donald Velez thanked the City of Richmond for the donation of the fire engine.

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

City Attorney, Scott Dickey, reported that the Council voted unanimously to approve a settlement in which the City of Richmond would receive \$1.75 million from Veolia.

**REDEVELOPMENT AGENCY BOARD
CONSENT CALENDAR**

*(See Redevelopment Minutes
RCRA15Dec2009).*

CITY COUNCIL 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. *Items removed from the Consent Calendar were heard at the end of the meeting.*

*- Approved a contract with Andre' Vernon, DBA Final Cut Construction, to provide instructional services for RichmondBUILD participants for the term from January 1, 2010, through December 31, 2011, in an amount not to exceed \$90,000.

*-Adopted **Ordinance No. 41-09** establishing the wages, salary, and compensation for the new classification of Community Services Administrative Manager (title change only) (Salary Range No. 060D: \$6,747-\$8,160/month).

*-Adopted **Resolution No's. 134-09 and 135-09** adjusting appropriations for the 2009-2010 Recreation Department budget to add \$500 in mini grant funding from the California State Parks Foundation for youth activities outdoor program and a \$1,000 donation from Kaiser Permanente for expenses incurred at the Senior Health Fair.

*-Approved a contract with David L. Gates & Associates to provide redesign and construction contract documentation for the Burg Neighborhood Park improvement Project, in an amount not to exceed \$59,930. The contract term will be from December 16, 2009, to June 30, 2010.

*- Approved a contract with the West Contra Costa Unified School District (WCCUSD) to receive payment in the amount of \$2,628,000 over a three-year period in return for providing School Resource Officer services to the WCCUSD's Richmond high schools and middle school from July 1, 2009, to June 30, 2012.

(Councilmember Butt abstained due to conflict of interest.)

*-Adopted **Ordinance No. 42-09** to extend the sunset date of the Business Opportunity Ordinance (Richmond Municipal Chapter Code 2.50) from January 29, 2010, to March 31, 2010.

*- Adopted **Resolution No. 137A-09** authorizing the Port Director to request an extension to the Environment Enhancement and Mitigation (EEM) Program Grant period beyond the current ending date of June 30, 2010, execute all required documents, and to take any and all actions necessary to implement the resolution. The grant is in the amount of \$350,000 for the construction of a 2.4 mile segment of the planned San Francisco Bay Trail in Point Potrero Marine Terminal.

Continued to the January 5, 2009, City Council meeting, the third amendment to the existing construction management services contract with Harris & Associates, Inc. to provide additional construction management services and to continue improving and updating Engineering Services' inspection policies and procedures, increase payment limit by \$250,000, to a new total limit of \$2,160,000, and extend the term of the contract to December 31, 2010, from the original March 21, 2006, inception date (this item was reviewed and recommended for approval by the Finance Committee at its December 4, 2009, meeting).

*-Approved a contract amendment No. 1 with Grade Tech, Inc. in an amount not to exceed \$106,928.64 that will cover the additional costs associated with the fencing and lighting on Phase II of the Central Richmond Greenway Bicycle/Pedestrian Trail bringing the total contract amount to \$1,091,149.24 (this item was reviewed and recommended for approval by the Finance Committee at its December 4, 2009, meeting).

*-Adopted **Resolution No. 136-09** authorizing the acceptance of a \$573,395 Edward Byrne Memorial Justice Assistance Grant (JAG) from the American Recovery and Reinvestment Act of 2009 and the appropriation of this amount for law enforcement programs.

*-Approved the 2010/2011 Preliminary North Richmond Waste & Recovery Mitigation Fee Joint Expenditure Plan (2010/2011 Preliminary Expenditure Plan) created to lessen the impact of illegal dumping and blight on the North Richmond community.

*-Approved the use of city facilities during regular business hours to open Questionnaire Assistance Centers, from March 19, 2010, through April 19, 2010, to aid residents with completing their 2010 Census form.

MOVED to a future meeting, the proposed appointment of Mayor McLaughlin as City Council Liaison to the Community Development Commission was presented.

*-Adopted **Resolution No. 137-09** approving a consulting contract with Wiss, Janney, Elstner Associates, Inc. for the preparation of portions of a Historic Structures Report for Shipyard No. 3 in an amount not to exceed \$35,000.

*-Adopted **Resolution No. 138-09** authorizing the acceptance of a \$139,494 JAG Grant from the Recovery and Reinvestment Act of 2009 and the appropriation of this amount for law enforcement programs.

*-Approved a contract with the Contra Costa Criminalistics Laboratory (Crime Lab) in an amount not to exceed \$300,000, for a term extending from July 1, 2009, to June 30, 2010, to process evidence submitted by the Richmond Police Department.

*-Accepted the report on the status of the pending layoffs and early retirements.

*-Approved the following appointments and re-appointments: Community Development Commission: Ezzie Ruth Martin (representing the Coronado neighborhood), term expiring March 21, 2012; Housing Advisory Commission: Alicia Carrillo, term expiring December 15, 2011; Human Relations and Human Rights Commission: Jenabi Pareja, term expiring March 30, 2011 (completing the unexpired term of Garland Harper); Police Commission: Bea Roberson, Incumbent, term expiring November 1, 2012; Glenn Stephenson, Incumbent, term expiring November 1, 2012. (***Councilmember Bates abstained***).

The matter to approve a fourth amendment to the legal services agreement with Gordon Hart of Paul, Hastings, Janofsky, and Walker (Paul Hastings) to facilitate the Navy's early transfer of Point Molate by assisting in the preparation of required documents, increasing the contract amount by \$100,000, for a total contract amount of \$570,000 while maintaining the June 30, 2010, term expiration date (this item was reviewed by the Finance Committee at its December 4, 2009 was presented.

Councilmember Butt stated he will not support this item because the City has been poorly served by the legal services of this firm. Mayor McLaughlin also stated opposition to approval of this contract due to the nature of the work proposed. A motion was made by Councilmember Bates, seconded by Vice Mayor Lopez, approved the agreement by the following vote: **Ayes:** Councilmembers Bates, Ritterman, Rogers, Viramontes, and Vice Mayor Lopez. **Noes:** Councilmember Butt and Mayor McLaughlin. **Abstentions:** None. **Absent:** None.

*-Approved a contract with Pankow Special Projects, L.P. (PSP) to provide comprehensive warranty management and on-call construction services at the Civic Center Plaza complex through June 30, 2010, in an amount not to exceed \$149,899.

REDEVELOPMENT AGENCY PUBLIC HEARINGS

(See RCRA15Dec2009)

CITY COUNCIL PUBLIC HEARINGS

The matter to adopt a resolution certifying the Final Environmental Impact Report (EIR), adopting a Statement of Overriding Considerations, a Mitigation Monitoring and Reporting Program, and approving the proposed General Plan Amendment, and introduce an ordinance approving the Rezoning for the Miraflores Housing Development project, subject to conditions of approval was presented by Richard Mitchell, Planning Director, Lina Velasco, Senior Planner. The proposed project includes the demolition or rehabilitation of identified historic structures; implementation of a Remedial Action Plan (RAP); construction of 80 units of affordable senior housing; construction of 130 single-family dwelling and 20 second dwelling units; the daylighting of a portion of Baxter Creek; and, associated landscaping and site improvements. Also, as requested by the Planning Commission, the project may also include up to 3,600 square feet of commercial use consistent with the proposed General Plan designation. Mayor McLaughlin opened the public hearing. Katie Lamont, Eden Housing gave comments. A motion by Councilmember Ritterman, seconded by Councilmember Viramontes, closed the public hearing by the unanimous vote of the Council. Mayor McLaughlin stated that she will vote against approval due to her concern regarding the lead contaminated soil that will remain under the street. Patrick Lynch, Housing & Community Development Director, replied that remediation will begin in January 2010 and a waiver from the Department of Housing and Urban Development

(HUD) will be requested and demolition activity will begin in March and April 2010. A motion made by Councilmember Butt, seconded by Councilmember Rogers, adopted **Resolution No.140-09**, by the following vote: **Ayes:** Councilmembers Bates, Butt, Ritterman, Rogers, Viramontes, and Vice Mayor Lopez. **Noes:** Mayor McLaughlin. **Abstentions:** None. **Absent:** None.

RESOLUTIONS

A proposed resolution to support the Energy Security Through Transparency Act (ESTT) and to promote environmental justice in the Niger Delta was presented by Mayor McLaughlin. The following individuals gave comments: Rev. Ken Davis, Swanu Beray, Laura Loroti, Brandon Barber, Juan Reardon, and Thom Namprasut. A motion made by Councilmember Viramontes, seconded by Councilmember Butt, adopted **Resolution No. 141-09**, by the unanimous vote of the Council.

ORDINANCES

MOVED to a future meeting the matter to adopt an urgency ordinance establishing a 45-day moratorium on the acceptance, processing and approval of applications and permits for tobacco-oriented retail establishments ("smokeshops") was presented.

The matter to introduce an ordinance amending Richmond Municipal Code Chapter 15.04 (Zoning) to prohibit the operation of medical marijuana/cannabis clubs, dispensaries and cooperatives in all zoning districts within the City of Richmond was presented. *(A motion by Councilmember Mayor McLaughlin, seconded by Councilmember Rogers, extended the meeting to 1:15 a.m – Councilmembers Bates and Butt objected).* The following individuals gave comments: Robert Newell, Jason Newell, Kris Tracy, Kamal Edwards, Brian E., Christopher L., Jose Giandonado, Armando Soto, Kimberley Q, David Kennedy, Richard Muller, John Clay, Danny Shultz, *(A motion was made by Councilmember Rogers, seconded by Mayor McLaughlin, extended the meeting 30 minutes, by the unanimous vote of the Council).* Judy Waters, Lisa Hirschorn, Thomas Denahy, Dennis DeWilt, Dennis Cortez, Joe Morales, Alex Martinez, and Corky Booze. Councilmember Butt stated that all the medical marijuana dispensaries are operating illegally. Councilmember Rogers requested that the Mayor form a committee to direct the police chief, other staff, and stakeholders, to identify a committee discuss ways to give persons safe access to medical marijuana without draining police services. Mayor McLaughlin stated that City

staff can meet with various persons from the City of Oakland, including the police chief. City Manager, Bill Lindsay, suggested that community outreach can be scheduled and the moratorium that has already been adopted be extended. Councilmember Bates requested a report on the nature and number of incidents that have occurred at the existing dispensaries. A motion made by Councilmember Rogers, seconded by Vice Mayor Lopez, approved the City Manager's suggestion, passed by the unanimous vote of the Council.

The matter to introduce an ordinance adding Richmond Municipal Code Chapter 15.04.942 governing deemed approved alcoholic beverage sales and amending Richmond Municipal Code Section 15.04.910.080(H) to require storefront windows in and inspections of businesses that sell alcoholic beverages was presented by Vice Mayor Lopez. A motion was made by Vice Mayor Lopez, seconded by Councilmember Rogers, said ordinance was introduced and laid over two weeks for second reading, passed by the unanimous vote of the Council.

COUNCIL AS WHOLE

The matter to discuss Phase 1 and 1A expenditures for the Civic Center Revitalization Project funded by the Redevelopment Agency, consider returning the balance of the construction reserve (estimated at \$1.9 million) to the Redevelopment Agency upon completion of the project, and consider reimbursement of the additional unforeseen costs incurred by the Redevelopment Agency in the amount of \$5 million during Phase 1 of the project was presented. Councilmember Viramontes gave an overview of the matter. She stated that the \$1.9 from the construction reserve be reimbursed to the Redevelopment Agency upon completion of the Civic Center Revitalization project and also reimburse \$5 million over a specified period of time determined by the City Council. The \$5 million are one-time funds coming to the City. Some of the sources of these funds will come from the Chevron Utility User Tax underpayment this fiscal year and another \$5 million next fiscal year, and also from Toll Brothers and from the Point Molate projects. The purpose of reimbursing the Redevelopment Agency the \$5 million will be to complete the Macdonald Avenue Project from Harbour Way to Atchison Village. A motion by Councilmember Viramontes, seconded by Councilmember Butt, to 1) authorize the City Manager to return \$1.9 million to the Redevelopment Agency upon close of the Civic Center project; 2) allocate \$350,000 to the General Fund Capital Improvement Project budget, (CIP), for purchase of the bulkhead for the Richmond Natatorium; 3) return one lump

sum loan payment to the Redevelopment Agency in the amount of \$5 million for use in completion of the Macdonald Avenue project. Mayor McLaughlin added that at this point the \$350,000 for a bulkhead is conditional until item M-6 on the agenda. Rogers suggested that there be more flexibility given for what the \$5 million will be used for. A substitute motion was made by Councilmember Bates, seconded by Councilmember Rogers to only return \$1.9 million to the Redevelopment Agency. Discussion ensued. A second substitute motion made by Mayor McLaughlin, seconded by Councilmember Bates, deferred this matter for discussion at the Mid-Year Budget Review, passed by the following vote: **Ayes:** Councilmembers Bates, Ritterman, Rogers, and Mayor McLaughlin. **Noes:** Councilmember Butt and Vice Mayor Lopez. **Abstain:** Councilmember Viramontes. **Absent:** None.

A motion made by Councilmember Viramontes, seconded by Councilmember Butt, the matter to receive a status report on the revised Draft General Plan, including modifications made in response to Planning Commission and community comments, and review and provide direction to staff regarding the process and timetable that will lead to adoption of the General Plan in early 2010 was heldover to a future study session, by the unanimous vote of the Council.

MOVED to a future meeting the matter to consider directing staff to engage experts in the design of destination resorts with casinos and which include the adaptive reuse of historic resources to assist in the review of Design Concept Documents for Point Molate and to provide professional evaluations and critiques and answer questions for the benefit of the Design Review Board, Planning Commission, and City Council.

The matter to receive a report from the city manager regarding the Paratransit Program was presented by Councilmember Bates. City Manager, Bill Lindsay, stated that Paratransit services will remain as is, but options will be explored on how to reduce the general fund subsidy to the program. This matter will return to the City Council in January 2010.

The matter to consider the following: (1) Vote to suspend rules to reconsider vote to support the movable bulkhead in the scope of work project to renovate the Richmond Natatorium (the Plunge) (requires two-thirds majority); (2) Vote to reconsider support of the movable bulkhead in the scope of work to renovate the Richmond Natatorium (the Plunge); and (3) Discuss including the movable bulkhead in the scope of work to renovate the Richmond

Natatorium (the Plunge) and provide direction to staff was presented. The rules were suspended by a motion by Councilmember Rogers, seconded by Councilmember Bates. The following individuals gave comments regarding consideration of suspending the rules only: Leonard Taylor, Ralph Kendrick, Naomi Williams, Texanita Bluitt, Angelina Rocco, Bart Hackworth, Martin Osborne, Joyce Senop, Courtney Coolidge, Janet Heckman, John Mayer, Ben Landon, Adam Beak, Norm Hanchy, Nancy Malone, Myrtle Braxton-Ellington, Rosemary Fonseca, Tanya Schwartz, Sanders Chen, Jovanka Beckles, Rosemary Corbin, Janet Thompkins, Ellie Strauss, Robert Strauss.

The matter regarding an allocation in an amount not to exceed \$350,000 from the approximate \$1.9 million balance of construction funds in the Civic Center Revitalization Project for the inclusion of a movable bulkhead in the renovation of the Richmond Natatorium (the Plunge) was presented by City Manager, Bill Lindsay. The following individuals gave comments: Penny James, Myrtle Braxton-Ellington, Kokoye Sande, Jovanka Beckles, Sandra Chen, Robert Strauss, Ellie Strauss, Rosemary Corbin, Janet Heckman, Alana Conner, John Mayer, Courtney Coolidge, Nancy Malone, Leonard Taylor, Pearl Hunter, Rev. Ken Davis, Millie Cleveland, Ralph Kendrick, Texanita Bluitt, Erin Allen, Rosemary Fonseca, and John Marquez. Discussion ensued. A motion made by Councilmember Ritterman, seconded by Councilmember Butt, approved the allocation, by the following vote: **Ayes:** Councilmembers Butt, Ritterman, Rogers, Viramontes, and Vice Mayor Lopez. **Noes:** Councilmember Bates and Mayor McLaughlin.

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

None.

ADJOURNMENT

There being no further business, the meeting adjourned at 2:20 a.m., in memory of Kyle Bratton, former RYSE Center Team Leadership Member, who was killed on Monday, December 14, 2009, to meet again on Tuesday, January 5, 2010, at 6:30 p.m.

City Clerk

(SEAL)

Approved: _____
Mayor