

**RICHMOND, CALIFORNIA, September  
27, 2011**

The Special Meeting of the Richmond City Council was called to order at 5:08 p.m. by Mayor McLaughlin who led the Pledge of Allegiance to the Flag.

**ROLL CALL**

**Present:** Councilmembers Bates, Beckles, Booze, Ritterman, Rogers, and Mayor McLaughlin. **Absent:** Councilmember Bates and Rogers. (*Councilmember Rogers arrived after adjourning to Closed Session*).

**PUBLIC COMMENT**

None.

**ADJOURN TO CLOSED SESSION**

The City Council adjourned to Closed Session at 5:11 p.m.

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**

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Subdivision [a] of Government Code Section 54956.9):** City of Richmond vs. Upstream Point Molate, LLC  
Richmond/In re Municipal Derivative Antitrust Litigation

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Significant exposure to litigation pursuant to Subdivision (b) of Government Code Section 54956.9):** One Case

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Initiation of litigation pursuant to Subdivision (c) of Government Code Section 54956.9):** One Case

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

**SPECIAL MEETING OF THE RICHMOND  
CITY COUNCIL**

**ROLL CALL**

**Present:** Councilmembers, Beckles, Boozé, Ritterman, Rogers, Vice Mayor Butt, and Mayor McLaughlin. **Absent:** Councilmember Bates.

**STATEMENT OF CONFLICT OF INTEREST**

None.

**OPEN FORUM FOR PUBLIC COMMENT**

Naomi Williams reported that there are street lights out in the Parkview neighborhood on South 55<sup>th</sup> Street, Creely Avenue, Campbell Avenue, and Fallon Avenue.

Cordell Hindler stated that the city needs to fix the City's soccer fields.

Leonard Taylor gave comments regarding the recent murder of an employee at Angie's Restaurant.

Billy Alexander announced his support for the re-election of President Barack Obama.

Kenneth Davis gave comments regarding him being taken out of the last council meeting.

Richard Stollings read a poem titled: "In the Morning".

Don Gosney stated that Chevron should hire employees locally.

Rick Alcaraz spoke against the hiring by Chevron of hundreds of employees from areas outside of Richmond.

Tarnel Abbott gave comments regarding the inequality of those who are wealthy and those that are poor and spoke against Chevron Corporation suing to be reimbursed millions of dollars in property taxes.

Rosanne Rykin stated that the City of Richmond will be in very bad financial shape if Chevron Corporation wins their property tax lawsuit against the city and Contra Costa County.

Jackie Thompson read a poem titled "Still I Rise" by Maya Angelou.

Jan Schilling, Executive Director of Weigh of Life, which is located at 968 23<sup>rd</sup> Street, stated that they will open another location, on Friday, October 21, 2011, at the Nevin Community Center.

Eleanor Thompson spoke in support of Councilmember Boozé and asked him to continue to speak on behalf of Richmond residents.

Texanita Bluitt thanked Mayor McLaughlin, Councilmember Boozé, and Jackie Thompson for attending her church's cancer walk this past Saturday. Ms. Bluitt also announced that on Saturday, October 1, 2011, St. Luke's Baptist Church, located at 165 South 7<sup>th</sup> Street, Richmond will conduct a cancer workshop.

Yolanda Jones, from Yolanda's Construction Administration and Traffic Control, stated that she would like Richmond residents to be employed by her company.

Michael Parker stated that there will be a Chevron educational meeting in the Council Chambers on Thursday, September 29, 2011, from 6 p.m. to 8 p.m.

### **AGENDA REVIEW**

None.

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

Mayor McLaughlin and Councilmember Boozé presented Certificates of Appreciation to BART Director Lynette Sweet, and staff members June Garrett, Lisa Moland, and Ana Pfeiffer for their assistance with coordinating a field trip for 18 Richmond youth. The following individuals gave comments: Jackie Thompson, Leonard Taylor, Naomi Williams, and Cordell Hindler.

*Councilmember Boozé read the following letter into the record: " City of Richmond Certificate of Appreciation presented to Lynette Sweet, Bart Director District 7: On behalf of the Richmond City Council, we Mayor McLaughlin and Councilmember Courtland "Corky" Boozé would like to thank Lynette Sweet for contributing to the success of the June 23<sup>rd</sup> BART fieldtrip for 18 Richmond youth. Your contribution has enabled the participants to practice life skills and to build self esteem. Your valued support has truly benefited our community."*

The City Council received a presentation from the California Association of Code Enforcement Officers honoring the City of Richmond and the Richmond Police Department's Code Enforcement Unit with the "Innovative Code Enforcement Program of the Year" Award from Kirk Buchman, Code Enforcement Officer, City of Belmont, speaking on behalf of the National Code Enforcement Association, stated that the City of Richmond won the award for the "One Block at a Time Program". A brief video about the program was presented. Tim Higaes, Code Enforcement Manager, and Police Chief, Chris Magnus accepted the award. The following

individuals gave comments: Cordell Hindler, Leonard Taylor, and Texanita Bluitt.

Mayor McLaughlin read and presented a proclamation recognizing October as Domestic Violence Awareness Month to Gloria Sandoval, CEO, Stand Against Domestic Violence. The following individuals gave comments: Cordell Hindler, Jackie Thompson, and Andres Soto.

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

Attorney, Scott Dickey, reported that the City Council voted unanimously, with Councilmember Bates absent, to initiate litigation regarding one case. Details of the case will be disclosed once the lawsuit is filed. Attorney Dickey also read the following statement regarding Point Molate into the record, which will also appear in the City Manager's weekly report: *"On April 5<sup>th</sup>, the City Council decided to discontinue consideration of a casino at Point Molate and to commence the 120-day exclusive negotiating period for an Alternative Proposal under the Land Disposition Agreement (LDA) Section 2.8. The 120-day period ended on August 3<sup>rd</sup>. Upstream Point Molate LLC submitted a "Non-Gaming Development Alternative" to the City on July 29<sup>th</sup>, but it was expressly not offered pursuant to LDA Section 2.8. On August 16<sup>th</sup>, the City filed a Declaratory Relief action against Upstream in Contra Costa Superior Court in order to expeditiously resolve outstanding issues between the parties concerning the LDA. The Assistant Secretary of the Interior for the United States disapproved the Guidiville Band of Pomo Indian's request for a positive restored lands determination, finding that the tribe does not have a historical connection or a modern connection to Point Molate, on September 1<sup>st</sup>. On September 16<sup>th</sup>, Upstream wrote to the City acknowledging the restored lands determination and giving the City "notice" of Upstream's intent to commence the 120-day exclusive negotiating period regarding its Non-Gaming Development Alternative. At the most recent City Council meeting on September 27<sup>th</sup>, the Council directed staff to negotiate with Upstream regarding an Alternative Proposal for a 120-day period commencing September 16<sup>th</sup>, notwithstanding the fact that the 120-day period under Section 2.8 of the LDA ended on August 3<sup>rd</sup>, as further demonstration of the City's good faith with respect to the LDA.*

**STUDY SESSION**

The City Council received a presentation on the City of Richmond's Pavement Management Program from City Engineer, Edric Kwan, who along with Tawfic Halaby, Associate Civil Engineer, and Pavement Coordinator, Margo Yam, of Nichols Consulting, presented a PowerPoint, and stated that all

pavement surfaces deteriorate over time. A successful pavement management program takes advantage of this simple principle and utilizes pavement preservation techniques to distribute available funding on preventive maintenance treatments before pavement deterioration requires more costly rehabilitation treatments. In the worst cases, failed pavements require reconstruction treatments which can cost many times more than preventive maintenance treatments. In pavement management literature, this is referred as the "pay now or pay *more* later" paradigm. The City of Richmond is responsible for approximately 286 centerline miles of pavement, or 750 lane-miles of pavement, roughly equal to a 12-foot wide road from Richmond to Vancouver, Canada. The cost to replace the entire pavement network is about \$450 million. The City recently completed a comprehensive citywide pavement distress survey. The survey results indicate that the City of Richmond's pavement network has a Pavement Condition Index (PCI) average of about 68. The PCI is a numeric grade that ranks the condition of streets on a scale of 100 to 0. In this system, 100 represents brand new pavement and 0 represents a completely failed pavement. Each street segment in Richmond's pavement network received a PCI based on the observed condition of the segment. Due to recent budget cuts and projected budget shortfalls, however, the City's pavement maintenance and rehabilitation funding has been reduced. As a result fewer streets will be paved in the next five years than were paved in the last five years.

### **STUDY AND DIRECTION TO STAFF SESSION**

The matter to provide direction to staff regarding whether to allow or prohibit the sale of live chickens at the Richmond Certified Farmers' Market, located at the northern section of a city-owned parking lot on Barrett Avenue between 24th Street and 25th Street, as part of a renewed land use permit to be effective November 1, 2011 was presented by LaShonda Wilson, Management Analyst, City Manager's Office, who stated that in 2007, the City entered into a Land Use Agreement (Agreement) with the Richmond Certified Farmers' Market Association (RCFMA) to provide them with access to the northern section of a city-owned parking lot located on Barrett Avenue between 24th Street and 25th Street for the sole purpose of running a farmers' market every Friday between January and December. When the Agreement went before City Council for renewal in 2009, staff's recommendation was not to allow the sale of live chickens at the Richmond Farmers Market (Market). After considering this issue, the Council approved the sale of live chickens at the Market, as long as the vendor continued to obtain and pass inspections, and the live chickens were moved away from the mortuary across the street. For the past year, the City has received numerous emails and phone calls from a representative of an organization called LGBT Compassion regarding the sale of live chickens at the Market. In recent months, members of this group have

protested the sale of live chickens at the Market which has caused an increase in time spent on this issue by staff in the City Manager's Office, the City Attorney's Office, and the Richmond Police Department. Some of the issues that have been raised by the LGBT Compassion group are sale of live chickens within 20 feet of produce and eggs; animal cruelty; location of the live chicken vendor, Mr. Raymond Young, at the market and claim that the chickens are not raised by Mr. Young; health of chickens; and foul smell and feces on public property. Staff was recently made aware of state legislation (SB 917, Sen. Ted Lieu) that will ban live animal sales in public areas beginning January 1, 2012. City staff will determine if this legislation applies to farmers' markets. Notwithstanding this legislation, staff would like direction on whether to include a term in the new Agreement to either allow or prohibit the sale of live poultry, including chickens, at the market. The current Agreement expires on October 31, 2011. The new Agreement, which will begin November 1, 2011 and expire on October 31, 2013, will go before City Council in October 2011, and will incorporate the direction provided regarding the sale of live chickens. The following individuals gave comments: Debra Claussen, Hope Bohaneck, Kristin Blackmore, Juana Anker, Don Gosney, Bea Roberson, Shanie Campbell, Kim Flaherty, Kate Danahuer, Warren Jones, Sherisa Cooper, Davig Bragg, Andrew Zolman, Gwen Williams, Alex Belzinger, Cordell Hindler, Virginia Handley, Pat Cuvallelo, Denise Bulvo, Ralene Colburn, Susan Oldershaw, Tom Cloman, and Kathy Renardson. A motion was made by Councilmember Ritterman, seconded by Councilmember Rogers to deny the sale of live chickens beginning November 1, 2011. A substitute motion by Vice Mayor Butt, seconded by Councilmember Boozé to allow the sale of live chickens as long as all sales comply with applicable law, failed by the following vote: **Ayes:** Councilmembers Boozé, Beckles, and Vice Mayor Butt. **Noes:** Councilmembers Ritterman, Rogers, and Mayor McLaughlin. **Abstain:** None. **Absent:** Councilmember Bates. The original motion passed by the following vote: **Ayes:** Councilmembers Beckles, Ritterman, Rogers, and Mayor McLaughlin. **Noes:** Councilmembers Boozé and Vice Mayor Butt. **Abstain:** None. **Absent:** Councilmember Bates.

### **ADJOURNMENT**

There being no further business, the meeting adjourned at 10:37 p.m., in memory of David Cox and thoughts of recovery for San Pablo Councilmember Arturo Cruz, to meet again on Tuesday, October 4, 2011, at 6:30 p.m.

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City Clerk

(SEAL)

Approved:

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Mayor