

RICHMOND, CALIFORNIA, October 17, 2006

The Regular Meeting of the Richmond City Council was called to order at 5:00 p.m., by Mayor Irma L. Anderson.

ROLL CALL

Present: Councilmembers Butt, Thurmond, Bates, Marquez, Griffin, Rogers, McLaughlin, Viramontes, and Mayor Anderson. **Absent:** None.

PUBLIC COMMENT

The purpose of the Open Session is to receive comments from the public on the following items to be discussed in Closed Session: **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Subdivision[a] of Government Code Section 54956.9) Three Cases: (1) Kubota vs. City of Richmond, (2) Baykeeper vs. City of Richmond, and Wiseman vs. City of Richmond. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code Section 54957.6) Titles: City Manager and City Attorney.** There were no comments from the audience.

ADJOURN TO CLOSED SESSION

The Open Session adjourned to Closed Session at 5:05 p.m.

The Closed Session adjourned at 6:53 p.m. and the City Council Open Session reconvened at 7:00 p.m.

STATEMENT OF CONFLICT OF INTEREST

None.

AGENDA REVIEW

Removed Items G-3, G-8, and G-12 from the Consent Calendar.

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:

CC-1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Baykeeper vs. City of Richmond – Settlement agreement was reached by the unanimous vote of the Council. Under the agreement, the City agrees to expend \$20 million on collection system improvements over the next five years; The City agrees to a schedule to annually reduce the number of sanitary sewer overflows from the collection system; The City agrees to establish a low-income sewer rate increase program that will provide a rebate to qualifying low-income residents over the next five years; The City agreed that low-income development principals will be mandatory for new development; The City will prepare a storm water enforcement response plan; The City will undertake a storm water quality study; The City also agreed that

stipulated penalties are authorized only for specific non-compliance along with reporting requirements. Copies of the settlement agreement were made available in the City Clerk's Office.

Kubota vs. City of Richmond – Confidential briefing was given to the City Council.

Wiseman vs. City of Richmond – Settlement agreement was reached in which the City agreed to pay \$35,000 in settlement of all claims, by the following vote: **Ayes:** Councilmembers Bates, Butt, Marquez, McLaughlin, Rogers, Thurmond, Viramontes, and Mayor Anderson. **Noes:** Councilmember Griffin. **Abstentions:** None. **Absent:** None.

CC-2. PUBLIC EMPLOYEE PERFORMANCE EVALUATION –

City Manager – No evaluation was conducted.

City Attorney – Confidential evaluation was conducted.

OPEN FORUM FOR PUBLIC COMMENT

Rock Brown gave comments regarding the tent cities in Richmond. He thanked Reverends Shumake, Newsome, and Brown; Corky Booze; Robert O. Brown; Freddie Jackson; and Councilmember Bates for cooking at the tent cities.

Albert Lee, one of the sponsors of the tent cities, stated that there is a need for job training programs for youth in the City. Mr. Lee thanked the City of Richmond and all those who came out to visit and help at the various tent cities.

Michael Higgs acknowledged that the tent cities have helped to deter crime in the City.

Corky Booze thanked Councilmember Bates and his son, Steven, for coming out to the various tent cities and cooking. He thanked Hotel Mac, Mike Davenport, and the church from Pleasanton who brought supplies. Mr. Booze on behalf of Mrs. Dawson and Emma Mitchell also sent thanks to Councilmember Bates. He stated that Jim Jenkins and Kaiser Hospital have also provided food and water.

Naomi Williams thanked Rochelle Monk, Jerrold Hatchett and Sims Metal, and the crew for the successful clean-up in her neighborhood. Ms. Williams thanked everyone involved with the tent cities.

Antwoine Cloird thanked everyone for their support of the tent cities.

Freddie Jackson, one of the organizers of the tent cities, thanked Councilmember Bates, Kaiser Hospital, and those who approved the permits.

James Jenkins urged all citizens to visit tent cities. Mr. Jenkins proposed that a future City Council meeting be held at one of the tent cities.

Ethel Dotson stated that there is a historical photo that was taken at Easter Hill Methodist Church that included Reverend Booker Anderson, Dr. Martin Luther King, Thurgood Marshall, and others. Ms. Dotson suggested that the photograph and Easter Hill Church be declared historical. Ms. Dotson also complained about political signs along 23rd Street, Richmond Parkway, and San Pablo Avenue that are out of compliance with the sign ordinance.

Jennifer Hall, a Senior at Richmond High School and President of the Black Student Union (BSU), announced an event titled: "An Evening with the King" to be held on Saturday, November 11, 2006, at the J.W. Marriot, San Francisco. The event will be hosted by the BSU of De Anza High School, and Dr. Alvita King, niece of Martin Luther King, Jr., will be the guest speaker. Ms. Hall asked for contributions to pay for meals for the students at the event. Contributions can be sent in care of the BSU of De Anza High School.

Josephine Iancola, President of the El Cerrito High School BSU, asked for financial support for "An Evening with the King" that will be held on November 11, 2006.

Daria Robinson, BSU Secretary at De Anza High School, asked for financial contributions in the amount of \$6,000 for the event "An Evening with the King".

Herk Schusteff, provided packets to the City Council regarding the events pertaining to the illegal road constructed above Greenridge Drive. The public may access this information at Mr. Schusteff's website, which is www.herkart.com. He read two excerpts from the local newspaper regarding Proposition 90.

Lisa Davis, business agent for Local Employees Union Local 1, representing employees of Doctor's Medical Center, thanked Councilmember Thurmond for attending the Board Workshop for Local 1 held on October 7th. She also thanked those involved for their support.

Reverend Filiberto Barrera gave comments regarding the Latina Center declaring the month of October for Violence Awareness. There will be a march on October 28th from 11:00 a.m. to 3:00 p.m. The departure point will be on the corner of 23rd Street and Macdonald Avenue and will end at Nicholl Park. On Wednesday, there will be a clean-up and Reverend Barrera asked for police presence and the donation of a dumpster.

PRESENTATIONS, PROCLAMATIONS, AND COMMENDATIONS

City Clerk read proclamations recognizing Breast Cancer Awareness Month. Mayor Anderson presented the proclamation to Rose Gibson and members of the "Rebels 4 a Cause" team from the City's Finance Department.

CONSENT CALENDAR

On motion of Councilmember Griffin, seconded by Councilmember Marquez, all items marked with an asterisk (*) were approved by the following vote: **Ayes:** Councilmembers Bates, Butt, Griffin, Marquez, McLaughlin, Rogers, Viramontes

and Mayor Anderson. **Noes:** None. **Abstentions:** None.
Absent: Councilmember Thurmond.

*- Approved a contract with Dunbar Armored, Inc. to provide courier service to transport monies and documents for the City of Richmond. Contract period is October 18, 2006, through November 1, 2009. Total amount of contract will not exceed \$43,000.

*- Approved a contract with PlanetBids, Inc. to provide an On-line Vendor Registration/Bid Management System for period of one year in the amount of \$19,000

A proposed contract with Todd Jersey Architecture of Berkeley to provide bid specifications, bid phase services, and technical services for the renovation of the Richmond Natatorium, for a total cost not to exceed \$60,000 was presented. Councilmember Butt asked what the scope of the bid documents are. Rich Davidson, City Engineer stated that the scope includes architectural, structural, and mechanical work. Councilmember Butt requested that this item be held over in order to make modifications to the contract. City Manager, Bill Lindsay, suggested that the City Council approve the contract and that the Mayor delegate a subcommittee that would conduct a final review of the project subject to review and approval by the subcommittee. Mayor Anderson appointed Ellie Strauss, Councilmember Butt, and Rosemary Corbin, with the Mayor as ex-officio to the subcommittee. On motion of Councilmember, Bates, seconded by Councilmember Rogers, approved the contract and formation of the subcommittee by the following vote: **Ayes:** Councilmembers Bates, Butt, Griffin, McLaughlin, Rogers, Viramontes and Mayor Anderson. **Noes:** None. **Abstentions:** Councilmember Marquez. **Absent:** Councilmember Thurmond.

* - Approved a contract with Lawrence H. Loder, a Civil Engineering Consultant, to provide services to meet the requirements in the Contra Costa Transportation Authority (CCTA) Agreement, at a total cost not to exceed \$40,000.

*- Adopted **Resolution No. 113-06** authorizing the filing of an application for the federal Surface Transportation Program/Congestion Mitigation and Air Quality (STP/CMAQ) funding for the Central Richmond Greenway East Segment Project.

*- Introduced and adopted **Ordinance No. 59-06 N.S.** extending the moratorium on new crematoriums, until September 1, 2007.

*- Approved an emergency contract with California Splicing and Testing to provide specialized high voltage repair of a 12,000 volt power line at Point Potrero Marine Terminal in the amount of \$16,000.

A proposed contract with the West Contra Costa Unified School District in the amount of \$65,000 for the term of October 17, 2006, through June 30, 2007, to provide remedial education and General Education Development (GED) preparation for out-of-school youth enrolled in the Workforce Investment Act (WIA) Program was presented (Councilmember Thurmond returned to the meeting). Sal Vaca, Employment & Training Director, stated

that the contract with the school district is one that has existed for the last 15 years. Youth who have dropped out of school or who are thinking about leaving school are encouraged to stay and help is provided for them to obtain their high school diploma or GED. On motion of Councilmember Bates, seconded by Councilmember Marquez, approved the contract by the unanimous vote of the Council.

*- Adopted **Ordinance No. 60-06 N.S.** establishing wages, salary, and compensation for the new classification of **Operations Administrator (Salary Range: \$4,209 - \$5,034/month).**

*- Adopted **Resolution No. 114-06** authorizing recruitment incentives for police officer candidates.

*- Approved a contract with Ralph Andersen & Associates to administer the recruitment process for selected positions in the Library and Community Services Department. The term of the contract is September 1, 2006, to June 30, 2007, and the total amount of the contract will not exceed \$20,000.

A proposed appointment to the Historic Preservation Committee was presented. Mayor Anderson recommended that Ms. Ethel Dotson be appointed to the committee. However, the bylaws of the committee only allow for seven members, which is the current number of the membership, and she recommended that the committee revise its bylaws to add another position and appoint Ms. Dotson. On motion by Councilmember Bates, seconded by Councilmember Marquez, approved the Mayor's recommendation to amend the bylaws of the Historic Preservation Committee to add one additional position, by the following vote: **Ayes:** Councilmembers Bates, Butt, Griffin, Marquez, McLaughlin, Rogers, Thurmond, Viramontes and Mayor Anderson. **Noes:** None. **Abstentions:** None. **Absent:** None.

*- Approved the minutes of the Evening Open Session held on October 3, 2006.

RESOLUTIONS

A proposed resolution to study the feasibility and use of biodiesel and biodiesel blends in the City and at the Port of Richmond was presented. Councilmember McLaughlin stated that Dr. Bruener, County Public Health Director, indicated his support for the proposed resolution. Biodiesel is a renewable fuel for diesel engines derived from natural oils that result in substantial reductions of hydrocarbons, carbon monoxide and particulate matter. It reduces the health risks associated with petrodiesel by lowering the emission of cancer causing hydrocarbons. The fuel would be used in City and Port vehicles. The average diesel emissions per square mile in Richmond and West Contra Costa County are 40 times higher than California as a whole and six times higher than in other areas of Contra Costa County. The following individuals spoke on the matter: Corky Booze, James Jenkins, Dr. Henry Clark, Juan Reardon, Paul Kilkenny, and Lee Jones. Following discussion, on motion of Councilmember McLaughlin, seconded by Councilmember Butt, adopted **Resolution No. 115-06**, by the unanimous vote of the Council.

A proposed resolution expressing support for the County plan to assist Doctors Hospital by forming a Joint Powers Authority, developing a community education and engagement process, and implementing structural changes was presented. John Gioia, Contra Costa County (CCC) Supervisor for District One, stated that the plan arranges for an immediate short-term cash infusion, reallocates some of the Health Care Districts property tax revenue to the County, establishes a Joint Powers Authority with the County having a majority of the votes, implements structural changes to the hospital's business plan, brings in additional healthcare and financial partners, and develops an education and engagement process to involve community and labor stakeholders in the long-term vision for hospital operations. The following individuals spoke on the matter: Corky Booze, Mike Ali, and Charlotte McIntire. Vice Mayor Viramontes expressed concern that the County has the majority vote on the Joint Powers Authority. Following discussion, on motion of Councilmember Thurmond, seconded by Councilmember Rogers, approved **Resolution No. 116-06**, by the unanimous vote of the Council.

ORDINANCES

A proposed ordinance amending Richmond Municipal Code Chapter 12.17 governing connections to the City's sanitary sewer system was presented (Mayor Anderson left the meeting). Rich Davidson, City Engineer, stated that after the sewer lateral inspection ordinance was adopted, various issues have arisen, and this proposed ordinance would clarify those issues. The cost to replace a sewer lateral is between \$4,000 to \$4,500, and the cost to obtain the permit to replace the lateral is \$100. On motion of Councilmember Bates, seconded by Councilmember Griffin, said ordinance received first reading and was laid over three weeks for second reading, by the following vote: **Ayes:** Councilmembers Bates, Butt, Griffin, Marquez, McLaughlin, Rogers, Thurmond, and Viramontes. **Noes:** None. **Abstentions:** None. **Absent:** Mayor Anderson.

COUNCIL AS A WHOLE

In the matter to recommend that the City Council authorize staff to negotiate a lease with DiCon Fiberoptics, Inc. ("Dicon"), 1689 Regatta Boulevard, for the temporary relocation of police department operations until the new Public Safety building can be occupied. Furthermore, if negotiations are not successful, the City Council authorizes staff to negotiate a lease for 1400-1402 Marina Way South (Marine Westshore). Councilmember McLaughlin asked how the police station being located on the other side of the train tracks would impact police responses. Chief Magnus replied that officers respond from various geographic beats throughout the City and not all would respond from the proposed police station. Steve Duran, Community & Economic Development Director, stated that a Request For Proposals (RFP) was sent out and five good responses were received (Mayor Anderson returned to the meeting). Staff, architects, and Swinterton Consultants inspected and toured all five locations. The total cost for repair and to move the Hall of Justice is \$9 million. The cost breakdown is \$5.6 million for three years' rent, tenant improvements, and the move. \$3.4 million will be used to renovate the existing Hall of Justice, when vacant, including basement improvements and seismic retrofit. The police department is scheduled to move into

the temporary location in the middle of March 2007. Chief Magnus does not anticipate any noticeable service impact during the move. Councilmember Butt stated that he thinks the police personnel should remain at the Hall of Justice while repair and retrofit work is done, rather than move to an alternate site. The following individuals spoke on the matter: Corky Booze, James Jenkins, Chris Tallerico, John Troughton, and Naomi Williams. Discussion ensued. On motion of Councilmember Griffin, seconded by Councilmember Rogers, authorized staff to negotiate a lease with DiCon Fiberoptics, by the following vote: **Ayes:** Councilmembers Bates, Griffin, Marquez, McLaughlin, Rogers, Thurmond, Viramontes, and Mayor Anderson. **Noes:** Councilmember Butt. **Abstentions:** None. **Absent:** None.

In the matter to adopt the Fiscal Year 2006-2011 Five-Year Capital Improvement Plan (CIP) and the 2006-2007 Capital Improvement Budget (Councilmember Thurmond left the meeting). Councilmember Butt asked what the cost would be for the required pavement management. Jim Goins, Finance Director, replied that in order to have quality roads, the City must set aside \$25 million each year for the next five years. This expense was included in the unfunded section of the Capital Improvement Plan. On motion of Councilmember Marquez, seconded by Vice Mayor Viramontes, adopted the Fiscal Year 2006-2011 Five-Year Capital Improvement Plan and the 2006-2007 Capital Improvement Budget, by the following vote: **Ayes:** Councilmembers Bates, Griffin, Marquez, McLaughlin, Rogers, Viramontes, and Mayor Anderson. **Noes:** Councilmember Butt. **Abstentions:** None. **Absent:** Councilmember Thurmond.

In the matter to consider spending \$5,000,000 per year in Redevelopment funds for pothole prevention/street paving until the Pavement Condition Index is improved from the current average of 52 (unacceptable) to 70 (acceptable) was presented (Councilmember Thurmond returned to the meeting). Councilmember Rogers suggested that the City use Redevelopment funding for street paving. City Attorney, John Eastman, stated that he does not think that Redevelopment funds can be used for the maintenance of streets, but may be used for capital improvements of streets. Ms. Lynn Huchins, Goldfarb & Lipman, stated Redevelopment funds may not be used to pay for the cost of pothole repair as it is considered a maintenance expense. However, Redevelopment money may be used for reconstruction of streets when the street is in a redevelopment project area. The following persons gave comments on the matter: Rock Brown, Corky Booze, Owen Martin, and James Easter. Councilmember Rogers suggested that this matter be put over to a later date in order to study what other funding sources may be available for the pavement program. Mayor Anderson suggested that a study session be scheduled regarding this matter to discuss existing sources of funding. On motion of Councilmember Bates, seconded by Councilmember Marquez, this matter was moved to the mid-year budget review for further discussion, by the following vote: **Ayes:** Councilmembers Bates, Marquez, McLaughlin, Viramontes, and Mayor Anderson. **Noes:** Councilmembers Butt, Griffin, Rogers, and Thurmond. **Abstentions:** None. **Absent:** None.

In the matter to discuss issues regarding abatement of graffiti near railroad right-of-way on I-580 at Central Avenue and provide direction to staff. Councilmember Rogers stated that the railroad companies are not abating graffiti on their property.

Corky Booze and Sims Thompson gave comments. A motion was made by Councilmember Rogers, seconded by Councilmember Butt to determine a way to gain access to the property in order to paint over graffiti on residential and commercial fences, which abut the railroad tracks, and enforce applicable Richmond anti-graffiti ordinances to abate the graffiti which is on railroad property. The motion passed, by the unanimous vote of the Council.

In the matter to discuss issues and concerns associated with the lack of African American Superior Court judges currently serving in Contra Costa County and direct staff to prepare a letter for the Mayor's signature to be sent to Governor Schwarzenegger's office, inviting a representative of that office to address the Council concerning the judicial appointment process, and, in particular, appropriate outreach to the legal community to enable the appointment of qualified African American judges to serve the Contra Costa community. Corky Booze and Ted Smith gave comments. On motion of Councilmember Griffin, seconded by Councilmember Bates, approved the preparation of a letter from the Mayor to be sent to Governor Schwarzenegger's Office, by the unanimous vote of the Council.

In the matter to receive a report concerning the West Contra Costa Transportation Advisory Committee (WCCTAC) subregional development impact fee program and provide direction to staff as appropriate. Vice Mayor Viramontes distributed the budget to the Council regarding how and when funding will be spent. On motion of Councilmember Bates, seconded by Councilmember Marquez, received the report, by the unanimous vote of the Council.

COMMUNICATIONS

None.

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

Councilmember Marquez

Councilmember Marquez announced that the next Public Safety/Public Safety Committee meeting will be on Thursday, October 19, 2006, at 10:30 a.m. Councilmember Marquez asked that Chris Hammond, organizer of the North Richmond Open Air Market, be acknowledged for organizing a pumpkin patch to benefit PAL and Verde School.

Councilmember Bates

Councilmember Bates acknowledged DP Security, Hotel Mac, McDonald's, Steve Bates, Corky Booze, and E.J. Shalaby for their help in organizing the fish fry at the various tent cities. He suggested that police officers come by the tent cities and interact with the community.

Councilmember Thurmond

Councilmember Thurmond commended and thanked the various students representing the Black Student Unions who spoke tonight.

Councilmember Rogers

Councilmember Rogers asked that the City Attorney provide a report at the next Council meeting regarding weed abatement issues on railroad property on I-580.

Councilmember McLaughlin

Councilmember McLaughlin announced that the next Rules & Procedures Standing Committee meeting will be on Thursday, October 19, 2006, at 4 p.m. Councilmember McLaughlin congratulated Ms. Tarnell Abbott, Reference Librarian, Richmond Public Library, for being the recipient of the Zoia Horn Intellectual Freedom Award. Ms. Abbott will be honored at the California Library Association's Conference in November, and Councilmember McLaughlin asked the Mayor to present Ms. Abbott with a commendation.

Councilmember Viramontes

Councilmember Viramontes commended the sacrifice of all those involved in the tent cities and thanked Councilmember Marquez for his assistance in obtaining the necessary permits for the tent cities.

Mayor Anderson

Mayor Anderson commended the leaders and community members who started and were involved with the tent cities. She announced that DuPont will come to Peres School to introduce science to the students.

ADJOURNMENT

There being no further business, the meeting adjourned, in memory of Marshall Walker, Jr., father of Marshall Walker III, retired City of Richmond employee and former President of Local 790, at 11:48 p.m., to meet again on Tuesday, November 14, 2006, at 7:00 p.m.

City Clerk

(SEAL)

Approved:

Mayor