

**RICHMOND, CALIFORNIA, November 14, 2006**

The Regular Meeting of the Richmond City Council was called to order at 5:11 p.m. by Vice Mayor Viramontes.

**ROLL CALL**

**Present:** Councilmembers Butt, Thurmond, Marquez, McLaughlin, and Viramontes. **Absent:** Councilmembers Bates, Griffin, Rogers, and Mayor Anderson.

**PUBLIC COMMENT**

The City Clerk announced that this was the time to hear comments from the audience on the following item to be discussed in Closed Session: **LIABILITY CLAIM:** Tanya Batte, Agency Claimed Against: City of Richmond. There were no comments from the audience.

The Open Session adjourned to Closed Session at 5:12 p.m. The Closed Session adjourned at 5:39 p.m.

The Open Session reconvened at 7:24 p.m.

**ROLL CALL**

**Present:** Councilmembers Butt, Thurmond, Bates, Marquez, Griffin, Rogers, McLaughlin, and Vice Mayor Viramontes. **Absent:** Mayor Anderson.

**STATEMENT OF CONFLICT OF INTEREST**

None.

**AGENDA REVIEW**

Removed Items G-1, G-4, and G-16 from the Consent Calendar.

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

**CC A-1.** John Eastman, City Attorney, made the following report:

**Tanya Batte vs. City of Richmond:** Settlement Agreement was approved in the amount of \$20,500 by the following vote: **Ayes:** Councilmembers Butt, Marquez, McLaughlin, Thurmond, and Vice Mayor Viramontes. **Noes:** None. **Abstentions:** None. **Absent:** Councilmembers Bates, Griffin, Rogers, and Mayor Anderson.

**OPEN FORUM FOR PUBLIC COMMENT**

Naomi Williams, member of the West County Alcohol Policy Coalition Working Group, gave comments regarding the group's opposition to the BART Board approving the advertisement of alcohol on BART trains and in BART stations. She asked the Council to submit letters to the BART Board asking them to rescind their decision.

Sims Thompson gave comments regarding the many street lights that need light bulbs replaced on the 23<sup>rd</sup> Street corridor and other locations throughout the City.

Jim Jenkins congratulated Vice Mayor Viramontes and Councilmembers Rogers and Thurmond on their re-election and commended candidates Corky Booze and Ludmyrna Lopez for their campaigns. He thanked Councilmember Bates for his guidance and Councilmember McLaughlin for inspiring him to run for Council as well as all of his supporters.

Jackie Thompson reported that on 23<sup>rd</sup> Street, from Hands Liquors to Garvin Avenue, there are cars parked along the street with 'For Sale' signs.

Corky Booze thanked the voters, Vice Mayor Viramontes, Councilmembers Rogers, Thurmond, Bates, and Butt for their support throughout the campaign. Mr. Booze thanked the city manager for helping with the clean-up of 4<sup>th</sup> Street Park and asked that the street lights that are not operating be replaced.

Patrice Boyken gave comments regarding the lack of street lights on 14<sup>th</sup> and Marina Way South and in many other locations throughout the City.

James Cash congratulated everyone who won election to the City Council. He reported that there is a need for street lights on 41<sup>st</sup> Street and Cutting Boulevard.

Robert O. Brown thanked Councilmember Bates and City Manager Bill Lindsay for all of their support of the tent cities.

Treanannette Haskins stated that she participated in the tent cities along with her children. She asked for street lights to be replaced on 4<sup>th</sup> Street.

Betty Cash thanked everyone who participated in the tent cities.

Curtis Isaac addressed the Council regarding the importance of giving ex-convicts, like himself, an opportunity to be employed and change their lives.

Kevin Hampton stated that there is a need for a greater community effort to assist those that need help in the City of Richmond in order to begin to curtail the violence and help individuals turn their life around.

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

Councilmember McLaughlin presented a Certificate of Recognition to Reference Librarian Tarnel Abbott in recognition of her receiving the California Library Association's "Zoia Horn Intellectual Freedom Award. Ms. Abbott thanked everyone involved with the presentation of the award. Lynda McPhee gave comments commending Ms. Abbott.

## **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, Thurmond, and Vice Mayor Viramontes. **Noes:** None. **Abstentions:** None. **Absent:** Mayor Anderson.

An emergency contract with CS Marine Constructors to repair the damaged fender piling system at Terminal 2 in an amount not to exceed \$120,000 was presented. Councilmember Butt asked how the Port was unaware of the ship that caused this damage. Jim Matzorkis, Port Director, replied that from time to time ships come to the port unannounced or do not have an agreement with them to use the berth. Once the vessel is observed they are asked to move. In this case, a vessel is believed to have come in the middle of the night and caused the damage. On motion of Councilmember Bates, seconded by Councilmember Griffin, approved the emergency contract with CS Marine Constructor by the following vote: **Ayes:** Councilmembers Bates, Griffin, Marquez, McLaughlin, Rogers, Thurmond, and Vice Mayor Viramontes. **Noes:** Councilmember Butt. **Abstentions:** None. **Absent:** Mayor Anderson.

\*- Adopted **Resolution No. 117-06** to (1) amend the Home Improvement Loan Program Guidelines and the Rehabilitation Loan Guidelines administered by the Redevelopment Agency under the Community Development Block Grant (CDBG) and Home Partnerships Investment Act (HOME) Consolidated Plan, and (2) align the CDBG and HOME Program Year with the City and Agency Fiscal Year beginning in Fiscal Year 2007-2008.

\*- Adopted **Resolution No. 118-06** authorizing the City to accept a \$201,387 Supplemental Law Enforcement Services Grant from the State of California, and to appropriate this amount for overtime costs for sworn personnel.

A proposed contract between the Richmond Police Department and the Crossover Creative Group for an amount not to exceed \$250,000 for a comprehensive police marketing and recruitment campaign was presented. Councilmember Bates asked why the City is not recruiting officers from other parts of the State with low paying wages. Chief Magnus indicated that the majority of the cost is for advertising. Rock Brown gave comments. On motion of Councilmember Bates, seconded by Councilmember Marquez, approved the contract by the unanimous vote of the Council.

\*- Approved the installation of two speed control undulations on the 900 block of Kern Street.

\*- Adopted **Resolution No. 119-06** accepting a 20 foot-wide public access easement from the Brickyard Landing Owners Association for the Bay Trail, and authorized the City Manager to spend up to \$20,000.00 to complete the specified improvements.

\*- Adopted **Ordinance No. 61-06** amending Richmond Municipal Code Chapter 12.17 governing connections to the City's sanitary sewer system.

\*- Adopted **Resolution No. 120-06** accepting certain street and public improvements completed by the developer, Braddock and Logan, as specified in the Improvement Agreement dated September 28, 2004.

\*- Approved a contract with artist John Wehrle for maintenance on three murals in the amount of \$28,610.

\*- Approved a contract with artist Tom Taylor for maintenance on one mural in the amount of \$11,010.

\*- Approved a contract with Safeway Corporation for advance-level information technology training for a term of November 15, 2006, through June 30, 2007, in the amount of \$551,747, which will be funded by a federal grant.

\*- Approved a contract to renew the lease of a single-family dwelling to provide the residential component of the Transitional Living Program. The contract will not exceed \$17,500 and the lease term is November 18, 2006, through September 30, 2007.

\*- Approved a contract with the Oakland Private Industry Council to procure goods and services on behalf of RichmondWORKS and in support of the East Bay Works One-Stop Career Center system for a term beginning November 15, 2006, and ending October 30, 2007, and in an amount not to exceed \$33,163.

\*- Approved a contract with the Oakland Private Industry Council to process Individual Training Accounts (ITAs) for program participants funded by the Workforce Investments Act for a term of November 14, 2006, through November 13, 2007, and in an amount not to exceed \$111,192.

The purchase of five fire trucks at a total cost of \$2,593,580 was presented. On motion of Councilmember Bates, seconded by Councilmember Rogers, approved the purchase of five fire trucks by the following vote: **Ayes:** Councilmembers Butt, Thurmond, Bates, Marquez, Griffin, Rogers, McLaughlin, and Vice Mayor Viramontes. **Noes:** None. **Abstentions:** None. **Absent:** Anderson.

\*- Approved the purchase of rubberized asphalt melter/sealer at a cost of \$41,807.55.

\*- Accepted the project of Bay Vista Park on Park Ridge Drive that was developed by SCS Development.

\*- Approved a contract with Hardy Insurance Consultant to conduct an audit of the City's Third Party Administrator for workers' compensation claims.

\*- Adopted **Resolution No. 121-06** amending the City of Richmond Classification Plan to add the classification of Lead Payroll Coordinator.

\*- Introduced an ordinance establishing wages, salary, and compensation for the new classification of Lead Payroll Coordinator (salary range: \$5,027 - \$6,085/month).

\*- Adopted **Resolution No. 122-06** amending the City of Richmond Classification Plan to add the classification Redevelopment Contract Administrator II.

\*- Introduced an ordinance establishing wages, salary, and compensation for the new classification of Redevelopment Contract Administrator II (salary range: \$5,823 - \$7,043/month).

\*- Adopted **Resolution No. 123-06** approving an additional 3% annual cost of living increase for recipients of the General Pension Fund.

\*- Adopted **Resolution No. 124-06** authorizing placement of liens on County Property Tax Records, for unpaid garbage collection service fees.

\*- Approved the exercise of options to renew original contract with PDSI, Inc., for maintenance and usage fees in support of the Fire Department's records management program, at an annual cost not to exceed \$6,630, and a total cost not to exceed \$19,890.00.

\*- Approved "Authorization to Order" to extend current CALNET pricing for up to three years for City of Richmond telecommunications.

\*- Approved recommendation to appoint Tara Beasley-Brown to the Revolving Loan Fund Board.

\*- Approved minutes of the City Council meeting and the Joint meeting of the Richmond Community Redevelopment Agency/City Council held on October 17, 2006.

### **PUBLIC HEARINGS**

An appeal by Toll Brothers of the Planning Commission's decision to deny certification of the Draft and Final Environmental Impact Report (EIR), and related General Plan Amendment, Rezoning and Design Review Permit for the Point Richmond Shores Project was presented. Richard Mitchell, Director of Planning and Building, stated that there are several actions possible, which are to uphold the appeal and certify the EIR and approve related applications for the project; uphold the appeal by certifying the EIR and refer the related applications for the project back to the Planning Commission for approval of the tentative subdivision map and Design Review permit and recommendations for General Plan Amendment and planned area rezoning; deny certification of the EIR and direct staff to amend the EIR and return it to the Planning Commission with an amended EIR for consideration prior to deliberation on the project approvals; take comments tonight and hold any decision to a date certain within 30 days. Ben Helber, Toll Brother, Inc., stated that they have been working on this project for three years and have made three site plan revisions in response to community input and Toll Brothers agrees to participate in the design charette mediation process. He requested that the City Council affirm its desire for a residential project on this site by the following actions: Certify the EIR, adopt the General Plan Amendment and rezoning, postpone the public hearing on the vesting tentative map and design review permit until a date certain to allow Toll Brothers, the neighborhood group, and the City to participate in a meaningful design charette mediation.

Alicia Guerra, Morrison and Foerster, stated that extensive analysis has been prepared and included in the EIR that demonstrates that every environmental impact has been fully evaluated and been prepared in accordance with CEQA. John Eastman, City Attorney, stated that there is an acceptable level of risk for the Council to go forward and decide the land use approvals tonight without sending it back to the Planning Commission, but it would be more prudent to send this matter back to the Planning Commission. Howard Ellman, Attorney for Concerned Citizens, stated that the EIR is inadequate due to many issues, including sewage incapacity problems and concern with project design issues. He stated that he welcomes the charette mediation process. The following individuals spoke on the matter: Andrea Glerum, Jim Jenkins, Corky Booze, Bruce Word, Rick Duste, Kirk Wallis, Jessie West, Tarnell Abbott, Grace Bodle, Ed Durbin, Nancy Strauch, Lee Huo, Bruce Beyaert, Scott Barker, (Councilmember Griffin left the meeting at 9:30 p.m. and returned at 10:03 p.m.) Beverly Galloway, Chris Curtis, Jonathan Livingston, John T. Knox, (Councilmember Bates left the meeting at 9:49 p.m.) Kevin Hampton, Aram Hodess, Don Gosney, (Councilmember Bates returned to the meeting at 9:53 p.m.) Robert Lane, Kitty Zahradka, Andras Hites, Wayne Ellis, and Scott Littlehale. Alicia Guerra stated that if the EIR is denied, there will be no point in conducting the design charette and requested that the General Plan amendment, rezoning and EIR be approved. Howard Ellman, stated that the Council not approve anything and allow time to conduct the design charette. A motion was made by Councilmember Bates, seconded by Councilmember Marquez to close the public hearing. The motion passed by the unanimous vote of the Council. Councilmember Thurmond asked if Toll Brothers would be willing to build portions of the Bay Trail. Ben Helber replied that Toll Brothers, with permission of the property owners, build the northern side of the Bay Trail. Rick Fuller, Swinerton Management & Consulting, stated that he conducted detailed analysis of the City's sewer system, pump station, and capacity at the wastewater plant. Mr. Fuller stated that there would not be a capacity issue at the Ferry Point Pump Station with flows that the proposed Richmond Shores project would generate. On motion of Councilmember Marquez, seconded by Councilmember Thurmond to uphold the appeal, certify the EIR and approve related applications for the project with the following amendments: ask Toll to complete an assessment of the deterioration of the 57 inch storm drain near the project repair and clean paths that would be used for storm water overflow issues; complete the Bay Trail portions phased in simultaneously with park development on the project; require the City and Toll Brothers to work with adjacent land owners for owner approved access for future northern trail access; perform assessment of the pier once it is cleared of equipment, if it is found to be deteriorated, then a condition of approval is that Toll Brothers and the Redevelopment Agency enter into negotiations on cost; holdover approval of the tentative subdivision map and design review permit until completion of the charette facilitated by a consultant considering the Design Review Board's recommended terrace design options and Bay Trail issues on the site with community recommendations completed by March 10, 2007; direct staff to place on the City Council agenda for the first meeting in December 2006, the matter to recommend approval of a facilitator and cost sharing with Toll Brothers and the Redevelopment Agency for the charette process. City Attorney, John Eastman, asked that the motion include the ability of staff to

address the added mitigation measures and then the resolution will return to the Council's agenda for approval. Councilmember Rogers, seconded by Councilmember Butt made a substitute motion that both parties negotiate in good faith and go through a charette with appropriate mediation and return to the Council in 45 days with the results. Discussion ensued. The substitute motion failed by the following vote: **Ayes:** Councilmembers Butt, McLaughlin, and Rogers. **Noes:** Councilmembers Bates, Griffin, Thurmond, and Vice Mayor Viramontes. **Abstentions:** Councilmember Marquez. **Absent:** Mayor Anderson. Discussion ensued. Councilmember Bates asked the maker of the motion to have this item return to the Council's agenda in the middle of December, if there is a problem, it can be stated at that time, and extended. Councilmember Thurmond requested that there be a four-month end date, but get status updates in between. Bill Lindsay, City Manager, stated that a facilitator could be hired and one meeting completed with issues identified, but nothing resolved, by the second meeting in December. At the first meeting in December, a facilitator can be identified and the funding established. The original motion passed by the following vote: **Ayes:** Councilmembers Bates, Griffin, Marquez, Thurmond, and Vice Mayor Viramontes. **Noes:** Councilmembers Butt, McLaughlin, and Rogers. **Abstentions:** None. **Absent:** Mayor Anderson.

## **RESOLUTIONS**

None.

## **ORDINANCES**

Introduced an ordinance for first reading to amend Sections 9.22.100 and 9.22.120 of the Municipal Code related to code enforcement and the abatement of public nuisances. A motion by Councilmember Butt, seconded by Councilmember Marquez passed and said ordinance received first reading and was laid over one week for second reading, by the unanimous vote of the Council.

Introduced an ordinance for first reading to amend Section 9.40 of the Municipal Code prohibiting public urination and related acts. The following individuals spoke on the matter: Corky Booze, James Cash, Jackie Thompson, and Felicia Haywood. Councilmember McLaughlin stated that the public Safety Committee discussed the issue of the lack of bathrooms at City parks. A meeting will take place with all departments involved in order to find a solution to this problem. Chief Magnus reported that portable facilities will need to continue to be located at the parks as a temporary fix. A motion was made by Councilmember Griffin to give first reading to the ordinance with the understanding the Police Department will be sensitive of the fact that the City does not have facilities available. Councilmember Butt suggested that this matter be put over for a couple of months until a feasible plan can be decided upon regarding public bathrooms at City parks. Councilmember Griffin withdrew his motion. Vice Mayor Viramontes continued the matter for six weeks in order to give ample time for departments involved in the matter to meet and find a solution to the City park bathroom issues.

## COUNCIL AS A WHOLE

In the matter to discuss and take action regarding City staff serving on boards of organizations that advocate for, endorse, sponsor or provide political contributions for candidates or measures in the City of Richmond election. Councilmember Butt stated that the City is a member of the Chamber of Commerce and the Council of Industries. The Council of Industries is also a registered lobbyist in the City of Richmond. In the recent election, both of these organizations publicly took positions, lobbied, and campaigned for and against candidates and against Measure T. The City Attorney provided a legal opinion that originated with the firm of Meyers, Nave, that the paying for membership dues to these two organizations is not an appropriate use of City funds. Councilmember Butt read the following legal opinion: *'It is therefore our opinion that the City of Richmond and or City staff acting in their official capacity may not use public funds to pay for membership to organizations that oppose or support ballot measures or that advocate for or against an election of a candidate for a local office and violations can result in civil or criminal penalties depending on the severity of the offense.'* City Manager, Bill Lindsay, stated that we have paid \$850 to the Council of Industries yearly and a \$10,000 Platinum Membership to the Chamber of Commerce. The City Manager serves as one of the ex-officio members of the Board of Directors. *A motion was made by Councilmember Rogers, seconded by Councilmember Bates to extend the meeting until 12:10 a.m. by the unanimous vote of the Council).* Jim Bates and Judy Morgan spoke on the matter. A motion was made by Councilmember Butt, seconded by Councilmember Rogers that the City cease being actively involved in the Chamber of Commerce and the Council of Industries until these or any other organizations the City may be a member of demonstrate that they will not be involved in political issues, and request that the City be reimbursed for its membership fees passed by the following vote: **Ayes:** Councilmembers Bates, Butt, Marquez, McLaughlin, Rogers, and Thurmond. **Noes:** Councilmember Griffin. **Abstentions:** Vice Mayor Viramontes. **Absent:** Mayor Anderson.

*Councilmember Rogers asked that the following matter be heldover to the next Council meeting:* Discuss and provide direction to staff regarding litter in railroad right-of-ways.

*A motion was made by Councilmember Bates, seconded by Councilmember Thurmond to extend the meeting to 12:30 a.m. by the unanimous vote of the Council to consider items removed from the Consent Calendar.*

## COMMUNICATIONS

None.

## 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, in memory of Curtis Hare, Father of James Walker, employee of the City's Equipment Services Division; Coach Dick Haan, El Cerrito High School; and Ed Bradley, news reporter, at 12:33 a.m., to meet again on Tuesday, November 21, 2006, at 7:00 p.m.

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City Clerk

(SEAL)

Approved:

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Mayor