

RICHMOND, CALIFORNIA, December 19, 2006

The Regular Meeting of the Richmond City Council was called to order at 7:23 p.m., by Mayor Irma L. Anderson.

ROLL CALL

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

STATEMENT OF CONFLICT OF INTEREST

None.

AGENDA REVIEW

Removed Items G-2, G-7, G-9, and G-10 from the Consent Calendar.

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

John Eastman, City Attorney, made the following report:

(Councilmember Thurmond was absent)

CC A-1. LIABILITY CLAIMS – Frine Railsback v. City of Richmond: City Council approved a workers compensation claim in the amount of \$40,000 by the following vote: **Ayes:** Councilmembers Bates, Butt, McLaughlin, Thurmond, Rogers, Vice Mayor Viramontes, and Mayor Anderson. **Noes:** None. **Abstentions:** None. **Absent:** Councilmembers Griffin and Marquez. **Johnny Thompson v. City of Richmond:** City Council approved a workers compensation claim in the amount of \$52,000 by the following vote: **Ayes:** Councilmembers Bates, Butt, McLaughlin, Thurmond, Rogers, Vice Mayor Viramontes, and Mayor Anderson. **Noes:** None. **Abstentions:** None. **Absent:** Councilmembers Griffin and Marquez. **James Chew v. City of Richmond:** City Council approved a workers compensation claim in the amount of \$23,000 by the following vote: **Ayes:** Councilmembers Bates, Butt, McLaughlin, Thurmond, Rogers, Vice Mayor Viramontes, and Mayor Anderson. **Noes:** None. **Abstentions:** None. **Absent:** Councilmembers Griffin and Marquez. **Lazaris Fuller v. City of Richmond:** City Council approved a liability claim in the amount of \$35,000 by the following vote: **Ayes:** Councilmembers Bates, Marquez, McLaughlin, Thurmond, Rogers, Vice Mayor Viramontes, and Mayor Anderson. **Noes:** Councilmember Butt. **Abstentions:** None. **Absent:** Councilmember Griffin.

CC A-2. PUBLIC EMPLOYEE PERFORMANCE EVALUATION: City Attorney, City Clerk and City Manager: Confidential performance evaluations were conducted of the City Attorney and City Clerk.

CC A-3. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION: A confidential discussion was held regarding one case of anticipated litigation.

OPEN FORUM FOR PUBLIC COMMENT

Mike Ali stated his support for Corky Booze's appointment to the City Council.

Antwone Cloird stated that he supports the appointment of Corky Booze to be appointed to the City Council.

Corky Booze apologized to Councilmember Griffin for an article written in the newspaper. He thanked Mr. and Mrs. Rick Ramos for their well wishes, and they were going to call members of the City Council to voice their support for him to be appointed to the City Council. Mr. Booze also thanked Mr. Stuckey who wrote e-mails to Councilmembers Thurmond, Marquez, and Rogers encouraging them to support him for appointment to the City Council. Mr. Booze thanked the community for their support.

Jackie Thompson stated that the vacant council seat should go to Corky Booze since he actually ran for council. Ms. Thompson also stated that the stop signs on Macdonald and 42nd and 43rd streets are not visible enough.

James Cash expressed his support for Corky Booze to be appointed to the City Council.

Donald Seals stated that the democratic process should be used and appoint Corky Booze is appointed to the vacant council seat.

Delon Jackson invited everyone to attend the 7th Annual Prayer Breakfast at Hilltop Community Church on January 6, 2007 from 8:00 a.m. to 12 p.m. Dr. Alvita King will be the guest speaker.

Ethel Dotson asked when cameras will be installed in the City.

Kathy Robinson stated her support for Corky Booze to be appointed to the City Council. Ms. Robinson stated that lights on the street and in the parks are inadequate. Ms. Robinson stated that the free garbage pick-ups that occurred once per year should be reinstated in order to curtail illegal dumping throughout the City.

PRESENTATIONS, PROCLAMATIONS, AND COMMENDATIONS

The Environmental Protection Agency presented \$600,000 in clean-up grant funds to the Redevelopment Agency and its non-profit partners for the site to be used for the Miraflores Housing Development. Ethel Dotson, and Lynette Gibson McAlhaeny presented Mayor Anderson with a proclamation to commend her for her lifelong commitment to public service. Lisa Hamburger, Richmond Community Redevelopment Agency, (*Councilmembers Thurmond and Bates left the meeting*), thanked the Council and Mayor for their support in obtaining grants from the Environmental Protection Agency in order to clean up brownfields throughout the City.

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

* - Adopted **Resolution No. 138-06** (1) authorizing the administration and expenditure of the Hazardous Waste Facility License Fee paid by Veolia Environmental Services and (2) authorizing the City Manager's Office to negotiate and execute contracts with the selected nonprofit organizations in an amount not to exceed \$92,500.

A proposed approval of (1) the new one-year contract for the 2007 calendar year between the City of Richmond and the Community Housing Development Corporation of North Richmond ("CHDC") for an amount not exceed \$146,145; and (2) adopt a City Council Resolution accepting funds from the 2006-07 North Richmond Waste and Recovery Mitigation Fee Fund currently being held by Contra Costa county to be used to finance the proposed contract with the CHDC was presented. Corky Booze gave comments. (*Councilmembers Bates and Thurmond returned to the meeting*). Lashonda Wilson, Management Analyst, City Manager's Office, stated that staff is proposing that the City enter into a one-year contract with the Community Housing Development Corporation of North Richmond to fund certain activities described in the 2006-07 North Richmond Waste and Recovery Mitigation Fee Expenditure Plan. The City Council and the Contra Costa Board of Supervisors approved the 2006-07 Expenditure Plan on September 12, 2006, which allocated \$1,519,732 for the implementation of 18 strategies to mitigate the impacts of the new transfer station's operation on the North Richmond community. On motion of Councilmember Griffin, seconded by Vice Mayor Viramontes approved the contract and adopted **Resolution No. 139-06** by the following vote: **Ayes:** Councilmembers Bates, Butt, Griffin, Marquez, McLaughlin, Rogers, Thurmond, Vice Mayor Viramontes, and Mayor Anderson. **Noes:** None. **Abstentions:** None. **Absent:** None.

* - Approved an addendum to State of California Purchase Card Program Master Services Agreement (DGS MSA 5-06-99-01) authorizing continued participation in this program. The City has participated in this program since October 2002.

A proposed resolution adopting the Capital Improvement Project budgets for fiscal years 2003-04 and 2004-05 was presented. Councilmember Bates asked why lighting issues in the City were not addressed in the budgets. Jim Goins, Finance Director, replied that the CIP budgets being approved tonight are for previous years. The City at that time, did not submit Capital Improvement Plans, which jeopardized receiving Measure C funds. Councilmember Rogers indicated that the agenda has the incorrect dates listed. The correct dates should be for adoption of the 2004-05 and 2005-06 CIP budgets. On motion of Vice Mayor Viramontes, seconded by Councilmember Marquez made an emergency motion to reflect the correct years of 2004-05 and 2005-06 CIP budgets on the agenda by the unanimous vote of the council. On motion of Vice Mayor Viramontes, seconded by Councilmember Marquez adopted **Resolution No. 140-06** and requested that the issues of lighting be placed on the mid-year

review discussion by the unanimous vote of the Council.

* - Adopted **Ordinance No. 64-06 N.S.** amending Richmond Municipal Code Section 9.20.150 and 9.20.155 to increase the solid waste collection rates to reflect a 2.48% change in the Consumer Price Index (CPI).

* - Approved the agreement with Sideman & Bancroft for legal services related to Utility Users Tax issues at the rate of \$350 per hour.

A proposed acceptance of work performed by Bay Cities Paving and Grading, Inc. for the completion of the Carlson Boulevard Improvement Project, for a final construction cost of \$688,938.90 was presented. Councilmember Bates stated that the Council requested that staff provide a list of Richmond residents working with Bay Cities on the project and the information has not been submitted to the City Council. Rich Davidson, City Engineer, stated there are three Richmond residents employed and three women. Corky Booze gave comments. On motion of Councilmember Thurmond, seconded by Vice Mayor Viramontes, accepted the work and requested that a report be provided to the Council, with details of Bay Cities' hiring practices, by the following vote: **Ayes:** Councilmembers Butt, Griffin, Marquez, McLaughlin, Rogers, Thurmond, Vice Mayor Viramontes, and Mayor Anderson. **Noes:** Councilmember Bates. **Abstentions:** None. **Absent:** None.

* - Authorized the City Manager to execute a contract with DuAll Safety to administer the City's Safety and Loss Prevention Program at a cost of \$120,000 a year and for a term from January 1, 2007, through June 30, 2010.

The Mayor's recommendations to appoint and re-appointment to the following board and commission was presented: Personnel Board: Emile de Vera, term expiring December 31, 2011; Housing Advisory Commission: Mary Williams, Incumbent, term expiring November 1, 2008. Councilmember McLaughlin stated that based on the City's Charter, Article 13, Section 6, reads: "*Members of the Personnel Board shall have been qualified electors of the City of Richmond for at least three years and shall be persons sympathetic with the principles of modern personnel administration.*" Councilmember McLaughlin stated that Mr. de Vera is not a qualified elector according to the County Registrar's list. On motion of Councilmember Rogers, seconded by Councilmember Bates, approved the reappointed of Mary Williams to the Housing Authority and requested that staff research the validity of Mr. de Vera's eligibility to serve on the Personnel Board and return later in the meeting with the information by the unanimous vote of the Council.

A proposed retainer agreement with a law firm to investigate allegations of discrimination made against the Police Department was presented. City Manager Bill Lindsay stated that the recommendation is for the City Council to obtain the services of Raymond Marshall, Attorney with the law firm of Bingham McCutchen to investigate the allegations. Mr. Marshall has experience in complex civil and criminal litigation and investigations of wrongdoing. On motion of Councilmember Bates, seconded by Councilmember Marquez approved the

agreement by the unanimous vote of the Council.

* - Approved a sole source procurement and authorized the City Manager to execute a contract with Single Source Consulting for workers' compensation consulting service at a cost of \$22,000 and for a term from November 1, 2006, through June 30, 2007.

* - Approved a contract with Robert Half International DBA Account Temps in the amount of \$25,000 to provide temporary accounting personnel to assist in the preparation of schedules for the Fiscal Year 2006 Financial Audit.

* - Approved the minutes of the meeting held on December 12, 2006.

PUBLIC HEARINGS

RESOLUTIONS

A proposed resolution declaring The Canvass of Returns and Results of the General Municipal Election held on November 7, 2006, was presented. Diane Holmes, City Clerk, stated that this resolution is one that the Council adopts after the canvass of the election is certified by the County Elections Office. The resolution confirms the final results of the November 7, 2006 election. Mike Ali, Juan Reardon, Ken Nelson, and Darnell Turner gave comments. Ken Nelson, President of the Richmond branch of the NAACP, and Mr. Turner stated that during the last election there were many residents that appeared to have been disenfranchised as a result of consolidation of polling places. Many residents were not able to vote and changes in polling place locations may have disproportionately impacted minority voters. Mr. Nelson and Mr. Turner asked that adoption of this resolution be postponed until the Department of Justice has completed its investigation of these allegations. Councilmember Bates stated that the entire voting process was flawed and he is requesting that this matter be placed on the Public Safety Committee agenda with a report from the County Clerk. City Attorney, John Eastman, stated that members of the Council cannot be sworn in without the certification of the resolution declaring the canvass of returns. On motion of Vice Mayor Viramontes, seconded by Councilmember Thurmond adopted **Resolution No. 141-06** and asked that the County Clerk be sent a letter asking for him to appear before the Public Safety Committee to discuss the election problems during the last election and that the Public Safety Committee bring back a list of recommendations to the City Council to move forward for Election 2008 and protest the process that occurred during the last election, by the unanimous vote of the Council. Councilmember Thurmond asked for an amendment to the motion that the Secretary of State be involved in this process, which was accepted by Vice Mayor Viramontes.

ORDINANCES

None.

COUNCIL AS A WHOLE

The following resolutions were presented: Approve the "Scenario B" phasing option for the Civic Center Project, which

would complete the renovation of the City Hall and the old Hall of Justice (HOJ), the Civic Plaza, and certain improvements to the Auditorium meeting rooms and foyer areas, including a new City Council Chamber in the Bermuda Room and direct staff to implement the approved phasing option. Steve Duran, Community & Economic Development Director, stated that staff is asking the Council to approve Phasing Scenario 'B' and the above noted resolutions. Civic Center Phase One Scenario 'A' is almost all at once and financing leverage and risk are too high; Scenario 'B' is recommended because it deals with City Hall and the old Hall of Justice first, financing is sound and revitalization impact is maximized; Scenario 'C' involves the new public safety building first and the temporary police station lease; Scenario 'D' includes the new public safety building first and the police department would be in portable buildings. The phase 1A contract of the Civic Center Project is a \$10.4 million contract, including: completion of construction documents for Phase 1A and 1B and schematic design for Phase 2 and seismic, demolition, and water intrusion work on City Hall and old Hall of Justice. The \$78.1 million Phase 1B is planned to begin in the spring to complete the \$88.5 million Phase 1 of the project. Councilmember Butt expressed concern regarding the high cost of this project thus far. Ethel Dotson and Chris Tallerico gave comments. On motion of Vice Mayor Viramontes, seconded by Councilmember Marquez, with an amendment by Councilmember Thurmond to direct the City Manager to incorporate design build concepts in this project and approved 'Scenario B' and adopted the following resolutions by the following vote: **Ayes:** Councilmembers Bates, Griffin, Marquez, McLaughlin, Rogers, Thurmond, Vice Mayor Viramontes, and Mayor Anderson. **Noes:** Councilmember Butt. **Abstentions:** None. **Absent:** None.

(a) Adopted **Resolution No. 142-06** finding that the Civic Center Project is a Master Development Project, recognizing Richmond Civic Center Partners as the developer chosen for the Project and recognizing Swinerton Builders as the contractor chosen for relocation of the Police Department; and

(b) Adopted **Resolution No. 143-06** authorizing the city manager to execute an agreement with Richmond Civic Center Partners, LLC for Phase 1A of the Civic Center Revitalization Project in an amount not to exceed \$10.4 million; and

(c) Adopted **Resolution No. 144-06** approving a lease with DiCon Fiberoptics, Inc. for a temporary police station consisting of approximately 52,000 square feet at 1689 Regatta Way for a term of three years with five (5) consecutive one-year renewal options and authorizing the city manager to implement City Council direction and expend funds; and

(d) Adopted **Resolution No. 145-06** authorizing the execution of certain documents in connection with a Forward Interest Rate Swap Agreement for the proposed Civic Center Financing Plan.

In the matter to consider issues related to parcels 556-121-017, 556-121-024, and 556-121-025; direct staff not to sell APN 556-121-025 and to negotiate the repurchase of APN 556-121-017 and APN 556-121-024, generally south of Point Richmond Tech Center 2, southwest of Canal and Cutting Boulevards. Steve Duran, Community and Economic Development Director, stated that this action will contractually

obligate the City to up to \$10.4 million. The funding is available for Phase 1A in the FY06-11 Capital Improvement Plan, adopted by the City Council on October 17, 2006. Over the last 13 month, staff has worked with Richmond Civic Center Partners and their development team to plan and analyze various design, location, and development phasing strategies associated with development of the Civic Center Project. Councilmember Butt expressed concern over the mitigation of wetlands on the property. Kevin Hampton gave comments. On motion of Vice Mayor Viramontes, seconded by Councilmember Marquez to hold this matter over until the first regular meeting of the Council on January 16, 2007 to allow staff to research all the legal issues pertaining to the wetlands agreement, the Wareham development, and the surplus property costs.

In the matter to approve an allocation of \$125,000 toward a \$575,000 contract with Moore Iacofano Goltsman (MIG) Inc., to develop a Specific Plan for the San Pablo Avenue corridor between the intersection of Macdonald Avenue and the Contra Costa Alameda County line. Remaining contract in the amount of \$450,000 is from the City of El Cerrito (\$270,000) and the West Contra Costa Transportation Advisory Committee (WCCTAC) (\$180,000). On motion of Councilmember Butt, seconded by Councilmember Marquez approved the allocation by the unanimous vote of the Council.

In the matter to authorize staff to prepare modifications to the current design review process, including modification to underlying ordinance, and return to Council with the modifications and or options for approval by March 30, 2007. Vice Mayor Viramontes stated that the Council has already voted to amend the design and review process to allow for design standards and authorizing funding for them and merge the Planning Commission and Design Review Board. Vice Mayor Viramontes also suggested that the Planning Commissioners should be paid \$50 per month for their membership on the Commission and should be discussed at the Finance Standing Committee. Councilmember Butt stated that he does not recall the Council voting to merge the Design and Review Board and the Planning Commission. Councilmember Bates suggested that the procedure of how the Planning Commission members are chosen be discussed at the Rules and Procedures Committee. The Council accepted the report.

In the matter to approve the Community Based Prosecution Program Agreement with the Contra Costa County District Attorneys' Office which would assign a Deputy District Attorney to the Police Department at a net annual cost to the City of \$139,000. John Eastman, City Attorney, stated that it was determined that having a dedicated Deputy District Attorney focused on Richmond and North Richmond cases based in the Police Department would be the best approach. Councilmember Bates stated he supports a half-time district attorney in order to reduce the cost. \$46,500 of the amount will be paid with North Richmond Waste and Recovery Mitigation Fees. Corky Booze gave comments. On motion of Vice Mayor Viramontes, seconded by Councilmember Marquez approved the agreement by the following vote: **Ayes:** Councilmembers Butt, Griffin, Marquez, McLaughlin, Rogers, Thurmond, Vice Mayor Viramontes, and Mayor Anderson. **Noes:** Councilmember Bates. **Abstentions:** None. **Absent:** None.

In the matter to approve a meeting of regionally elected officials to occur in late January or early February 2007, to discuss violence reduction strategies and fund-raising efforts. Councilmember Thurmond stated that elected and public officials throughout the region would be invited to discuss similarities in crime problems and how to work together to get resources in order to reduce crime problems. Corky Booze gave comments. On motion of Councilmember Thurmond, seconded by Councilmember Butt approved the meeting, by the unanimous vote of the Council.

In the matter to discuss and direct staff regarding consideration of partnering with the Rosie the Riveter Trust to Preserve the Sheet Metal Shop. Councilmember Butt gave an overview of the matter. The Sheet Metal Shop was constructed in 1943, and is one of the five remaining buildings of Historic Shipyard 3, Part of Rosie the Riveter WWII Home Front National Historical Park, listed on National Register of Historic Places, and California Historic Landmark. Authorize the City Manager to work with the Rosie the Riveter to save the building. Councilmember Butt asked that the City lease the building to the Rosie the Riveter Trust and the trust would go out and try to raise money to repair the building. *(On motion of Vice Mayor Viramontes, seconded by Councilmember Thurmond extended the meeting to 12:15 p.m., by the unanimous vote of the Council).* Lucy Lawless, National Park Service, gave comments. On motion of Councilmember Bates, seconded by Councilmember Griffin directed the City Manager and the Port Director to come back with a recommendation of partnering for a plan to preserve the Sheet Metal Shop building and discuss how the preservation of the building would affect future Port use, 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)

None.

ADJOURNMENT

There being no further business, the meeting adjourned at 12:12 a.m., in memory of Jimmy Jackson and Brenda Faye Young, mother of Manny Moulton, to meet again on Tuesday, January 16, 2007, at 7:00 p.m.

City Clerk

(SEAL)

Approved:

Mayor