

**PLANNING COMMISSION REGULAR MEETING
COUNCIL CHAMBERS, RICHMOND CITY HALL**

450 Civic Center Drive, Richmond, CA
September 20, 2012
6:30 p.m.

COMMISSION MEMBERS

Sheryl Lane, Chair
Roberto Reyes, Secretary
Ben Choi
Melvin Willis

Andrés Soto, Vice Chair
Andrew Butt
Carol Teltschick-Fall

The regular meeting was called to order by Chair Lane at 6:35 p.m.

Chair Lane led in the Pledge of Allegiance.

ROLL CALL

Present: Chair Lane, Vice Chair Soto, Secretary Reyes, and Commissioners Butt, Choi, and Willis

Absent: Commissioner Teltschick-Fall

INTRODUCTIONS

Staff Present: Hector Lopez, Carlos Privat, Richard Mitchell and Lina Velasco

MINUTES

August 2, 2012 Minutes

ACTION: It was M/S (Soto/ Butt) to approve the Minutes of August 2, 2012; unanimously carried (Choi abstain; Teltschick-Fall absent).

Chair Lane provided an overview of meeting procedures for speaker registration, public comment and public hearing functions. She said items approved by the Commission may be appealed in writing to the City Clerk by Monday, October 1, 2012, by 5:00 p.m. and as needed, announced the appeal process after each affected item.

CONSENT CALENDAR

Chair Lane reported there was one Consent Calendar item. Ms. Velasco noted that staff's recommendation is to hold over the item to October 18, 2012 instead of October 4, 2012.

Chair Lane asked if any members of the Commission or the public had any comments.

ACTION: It was M/S (Choi/Soto) to approve the Consent Calendar consisting of Item 1, as amended to hold over the item to October 18, 2012; unanimously carried.

Consent Calendar Items Approved:

- 1. 1100513: Knobcone Development of 4 Residential Lots - PUBLIC HEARING** to consider adoption of a Mitigated Negative Declaration and the approval of the proposed Tentative Map to subdivide the site at 5801 Knobcone Court (APN:435-300-010) into four single-family residential parcels and a remainder parcel. One house exists on the site; and the subdivision would create three additional residential lots. The proposed lots are identified as Parcels 1-1 through 1-4. Parcel 1-4 would be 22,920 sq. ft., and includes the existing single-family house. Three additional residences are proposed for parcels 1-1 (13,925 sq. ft.), 1-2 (15,310 sq. ft.), and 1-3 (12,861 sq. ft.). The three new split-level residences would range in size from 2,400 to 3,600 square feet. The remainder of the site, a 61,540 sq. ft. (1.41 acres) parcel (referred to herein as the “remainder parcel”), would have a detention basin to control rainwater runoff but would remain undeveloped because of potential geologic hazards. PA, Planned Area District; Rong Fong, owner; William Randolph, applicant; Planner: Jonelyn Whales; Tentative Recommendation: Hold Over to 10/18/2012.

BROWN ACT – PUBLIC FORUM

Coire Reilly, Contra Costa Health Services, said they are working in partnership with the City of San Pablo to hold a community planning process for a stretch of San Pablo Avenue beginning at Rivers up to Hilltop Drive. They are seeking community input on how that stretch can possibly change in the future. A workshop will be held at Wanlass Park in San Pablo. They will meet in vans, drive along portions of the park, get out and experience it as a pedestrian, identify ADA needs, public transportation needs, and do some visioning sessions. They will hold future meetings where they will come back with design ideas and incorporate input received. He distributed flyers to the Commission and audience members.

Commissioner Soto said he is familiar with the area and said it is also State Highway 40. He asked if Caltrans would be involved, and Mr. Reilly said a Caltrans grant is funding the work. He noted the process is being led by the City of San Pablo, but the stretch of San Pablo Avenue is Richmond right-of-way.

Commissioner Butt asked what the end result would be, and Mr. Reilly said it will be a City plan that both cities will adopt and be able to receive future funding for.

STUDY SESSION

- 2. PLN12-248: Livable Corridors Form-Based Code - PRESENTATION** of the Charrette Summary document for the Livable Corridors Form-Based Code Project. The Charrette Summary document summarizes the public input received during the Charrette process. The draft Charrette summary document is available on the City’s website at www.ci.richmond.ca.us/livablecorridors; City of Richmond, applicant; Planner: Lina Velasco; Tentative Recommendation: No Action.

Senior Planner Lina Velasco said she would present the community charrette document prepared as a result of public input received for the project, ask for feedback and input and the code will be used to guide the development of the form-based code. Consultant team member Chris Janson of Opticos Design will present, and Josh Meyers of the Local Government Commission and Lisa Wise of Lisa Wise Consulting are in the audience.

As background, in 2010, the City received a grant from the California Strategic Growth Council to prepare a form-based code, which covers three major corridors in Richmond; Macdonald Avenue, a portion of San Pablo Avenue, and 23rd Street, including the surrounding neighborhoods. The form-based code will replace outdated zoning regulations with new development and performance standards for buildings, streets, and public spaces that will help transform these corridors into hubs for businesses, jobs, housing, and community services. The code is the first phase of the zoning ordinance update that will be undertaken to implement the General Plan 2030.

Chris Janson, Opticos Design, discussed the many people and parts associated with working on the project and said the project area looked at downtown Richmond, the area along 23rd Street, Macdonald and San Pablo Avenues. Within these corridor areas, they created several sub-corridors which they studied individually through a series of charrette; 1) West Macdonald Avenue, 2) Downtown, 3) East Macdonald Avenue, 4) Macdonald/San Pablo gateway, 5) San Pablo Avenue and 6) South 23rd Street. The project will also pick up on previous work they had done looking at North 23rd Street and Uptown back in 2009.

Mr. Janson said the project document is organized by these areas. They felt the community residents in these areas would have better ease in picking up small portions of it to better understand what is being proposed in their specific neighborhoods. However, tonight he will go through broader ideas looking at the entire project area.

He said the project began its base with community participation, stakeholder interviews, held a Saturday walking tour and table mapping event, and three charrettes. The process was interactive which resulted in receiving feedback on the designs, which evolved based on the feedback. What they are presenting is a summary of community input received. They then created a list of assets, began to identify constraints and opportunity sites within the project area. From these they developed a series of objectives which are contained in the staff report. In part, they are broken down into categories of what would create good neighborhoods, what could help spur the local economy, what is important to promote public health, sustainable elements that could be incorporated, and how could they incorporate Richmond's history and culture. They created a color-coded system that includes all objectives relating back to these five principles.

Mr. Janson said they also worked with their economic consultant on a jobs housing balance, noting that 34,000 residents leave the City to work elsewhere, 23,000 people come into Richmond for employment, and 4,000 stay and work in Richmond. They looked at how to create housing for residents coming outside of Richmond and how to create jobs for residents who are traveling outside of Richmond for jobs.

They also looked at 1,000 new residential units in the downtown as a reasonable goal. This translates to two new clothing stores, one new jewelry store, three to six new restaurants, and one new specialty food store. They also talked about density along the residential corridors, and 16 du/acre is a target for a walkable commercial main street. Existing density is only 2.7 du/acre along San Pablo and Macdonald, which translates to approximately 16,000 additional units in that area for increased density. He said studies show walkability can affect property values. A 1 point increase in a walk score can translate into a \$2300 increase in property value.

They also organized the document to look at ways to create small improvements that could be implemented relatively short term, as well as larger improvements that may take many more years or be more complex to implement. Small improvements could include establishing a

business association or business improvement district, increasing access to fresh and healthy foods and supporting local entrepreneurs, focusing commercial activity around existing commercial nodes, making simple façade improvements to help activate the street and encourage pedestrian activity. They also looked at building types and ways to increase density while providing medium density housing, incubate new retail services, evolve the industrial area over time, improving pedestrian connections, providing lights or bollards that provide safe underpasses, introduce a new public market hall and public book space in the downtown.

For thinking big, they looked at gateways and what they could transform to over time. They looked at transitions near surface parking lots, the county buildings area, medium density housing types blending in with single family homes, allowing ancillary units along the greenway that could provide eyes and additional density, street right-of-ways and additional lanes, bike lanes integrated into East Macdonald and walkable sidewalks along the north side, various calming traffic measures in street sections on North San Pablo Avenue which builds off of the bike and pedestrian plans, a road diet for South 23rd Street as a short-term achievement, and things to take into consideration such as designing for pedestrians, for bicyclists, for transit, and transportation demand management. They also talked about designing for sustainability, respecting the climate through solar access and shade, and protection from the wind, designing for public health, access to healthy foods, physical activity, for perceived safety, and economic vitality, to focus activities at nodes, and to provide supportive commercial density.

In addition to the charrette report, Mr. Janson said they have a series of more technical memos which are available on-line, such as an evaluation of the San Pablo Avenue cross sections, a more detailed road diet analysis, transportation demand program recommendations, sustainability infrastructure and analysis recommendations, health issues and recommendations, and a more detailed economic report.

Mr. Janson said next steps include taking the document as the vision they are looking to reinforce in the form-based code. Their goal is to have a draft out for administrative review in December. They will review this draft with City staff and the project advisory group. In February they will look at releasing a formal public review draft and bringing it back to the Commission, and in April they will be creating the final draft. He added that the project was funded through a Strategic Growth Council grant and their time period is 24 months, so they are looking at wrapping up the entire project by the end of July 2013.

Commissioner Reyes pointed to the Richmond co-ops which he said can happen anywhere, while the Main Street Initiative project is specifically for the downtown. He asked if Mr. Janson had discussions with Terry Baird, Director of the Richmond Co-Op program, stating he also serves on the advisory board. Regarding the road diet, he thinks it is something the community needs to engage in. He is also looking at more of the public health aspect and how seniors will reach facilities.

Commissioner Soto said he thinks the report reflects a lot of his thinking about the direction the City should be moving in, as well as is reflected in the General Plan development process. He said San Pablo did a road diet on their side of 23rd Street and once at Rheem, traffic speeds increase. He hoped to be able to someday reconfigure this section all the way down to the underpass which would be a better configuration, as it is a distinct difference.

Commissioner Butt applauded these efforts, thinks it is a huge step in the right direction and this, along with the General Plan, is a great map for the City of Richmond. He said he hopes the economics align with it and things happen. He has been involved with projects, has been

looking at the area in the Knox-Cutting Specific Plan and much of the language did not translate into much development in that area which is unfortunate. He hopes that the City embraces developers to use the form-based model. He commented that sidewalk dining is proposed next to his office, and while this is a great idea and needs to happen more and more, the current Municipal Code does not support this. It is important to take these ideas and ensure that laws are consistent and in alignment with them. He likes the idea of thinking big and small, noting the report is hefty with many good ideas and likes the idea of creating some that are bite size projects that could be readily achieved and others which are more long term. Economically, he hopes things continue to get better, but with redevelopment gone, ideas like entire streetscape are tougher. Therefore, he would be curious to see and hear more about economic feasibility for some projects. He also commented that he likes the concept of vertical elements along Macdonald. Finally, regarding the public health aspect and transportation, he did not notice any provision or planning for mass transit. There is a rich history of successful and long-lasting surface transportation in West County and Oakland. Many of the main streets in Richmond had light rail at one time and it would be worth looking at again. Mr. Janson said they discussed this with WCCTAC and their inclination was more towards Cutting Boulevard which is outside of their project area.

Commissioner Reyes suggested also including mobile vendors when looking at development business spaces, as they may be able to become brick and mortar businesses.

Chair Lane asked for public comment.

Public Comments:

Owen Martin, Richmond, said he has attended many charrettes. He referred to proposals to reduce streets from 4 lanes to 2 lanes, adding bicycle lanes, having people walk 3 blocks from their homes to businesses, he still hopes the City plans for people to use automobiles and for parking so that people who drive to Richmond will be able to park and shop. He also asked to increase the size of the sewer systems to handle in-law cottages and multiple story businesses with residential on top.

Chair Lane applauded those involved in the process, commented there was good turnout for the charrettes. She said at some time she thought that 23rd Street went through a form-based code development process. Mr. Janson said they actually got ahead of the General Plan and had to wait for the General Plan to be adopted. The City used the remaining budget for that project to go after this grant. The goal is to roll all of those projects together into one form-based code. They got to the administrative draft status on that code and since then they've learned more things writing other codes. They will be updating the administrative draft 23rd Street form-based code and making it one consolidated code.

Chair Lane asked whether other commercial corridors in Richmond will be undergoing this type of process, and Mr. Janson said hopefully. They have tried to look for additional grant money to expand this further. Currently, these are the corridors that have been identified for this first round and hopefully they will be able to replicate and expand further.

Ms. Velasco acknowledged Coire Reilly of Contra Costa Health Services who is also part of the consultant team who is in the audience and who will be developing a health impact assessment which will help evaluate what the health outcomes of this project could be. They provided some recommendations up front so that the consultant team writing the code can take those issues into account. In terms of Commissioner Butt's comment about feasibility of funding sources for

the right-of-way improvements, as part of the Housing Element presentation, they will hear about the OneBayArea grants which will be targeted for Priority Development Areas (PDAs), and San Pablo Avenue, 23rd Street and Macdonald are designated PDAs. These areas will be targeted for specific improvements to support growth in these transit rich areas. As part of this project, plans for improvements will be developed so that the City can apply for grants and funding to construct or further design.

Commissioner Soto said it was mentioned that WCCTAC preferred Cutting Boulevard for light rail, and Mr. Janson said this was when they discussed where light rail would go. That corridor was included in the discussion. Logistically looking at Macdonald and San Pablo was difficult. Cutting was discussed as part of the whole area, although he did not want to put words into WCCTAC's mouth.

The public hearing was closed. No action by the Commission was requested.

- 3. PLN09-137: Revised Draft Housing Element 2007-2014 - PRESENTATION** to receive Planning Commission input on the City's Revised Draft Housing Element for the current 2007-2014 planning period. The Housing Element is a State mandated element of the General Plan which assesses a jurisdiction's housing needs and provides goals and policies to address those needs. The Draft Housing Element is available for public review on the city's website: www.ci.richmond.ca.us/housingelement; City of Richmond, applicant; Planner: Hector Rojas; Tentative Recommendation: No Action.

Ms. Velasco said the consultant team will assist in presenting the revised Draft Housing Element for the planning period 2007 to 2014. Richmond's current Housing Element was last updated in November 2005 and the City Housing Element is considered to be out of compliance. Staff tried to pick up the task of updating the Element as part of the General Plan update, but a lot of housing law changed, requirements increased and with all other responsibilities, staff was not able to complete this task without the assistance of a consultant. Staff re-kicked off the process in April at about the time when the General Plan update was being adopted. The process has included community engagement and the consultant team will discuss specifics during their presentation.

The City released the revised draft on September 10th, has been holding meetings with community members, along with housing groups to obtain additional feedback and comments, and staff tonight is looking for feedback on this draft from Commissioners, along with members of the public. Staff will take those comments and present a revised element for recommendation to the City Council.

Ms. Velasco introduced Lisa Wise from Lisa Wise Consulting and Marie Munson from Seifel who are consultants going to give the presentation.

Lisa Wise said they do planning and economics and have worked on about 14 housing elements around the state. Seifel focuses on real estate and urban economics and have been an important part of the team. Ms. Wise said they will talk about the purpose and requirements of the Housing Element, public engagement, information on demographics and vacant land, the findings and information from the workshops. She will then summarize the major goals, policies, and programs.

Ms. Wise briefly described the purpose and requirements of the Housing Element as regulated by the State. The state wants the City to look at the existing element, what is working and not

working, do a big data collection analysis, an inventory of resources and constraints, and a vacant land inventory.

They had an extensive public participation process. They will do performance measures for the element's programs. She said the process began with the General Plan update with a number of visioning meetings, workshops, and the City sent off the plan to the state for review. The HCD responded via a review letter dated February 2011 and they took comments into account, along with the additional community input. Once the General Plan was adopted in 2012, they re-initiated the Housing Element update. They held stakeholder interviews, held two workshops in June and in August with round table discussions, and they received and addressed a number of letters and emails.

In looking at demographic information, they looked at how the City sits in comparison to the County and other local jurisdictions. They are 10% of the county in terms of population. They have grown less than the county from 2000 to 2010 at about .4% per year compared to 1% for the County, which will flip around in the next 20 years where the City will grow at 1.2% or higher than the county average. In addition, regarding household income, countywide 33% of the households earn \$50,000 or less, and in the City about 56% of the households earn \$50,000 or less in household income. She presented housing tenure - ownership versus rental housing, and said the City is slightly behind with about 53% home ownership versus the County at about 67%.

She presented the Regional Housing Needs Allocation (RHNA) as allocated to Richmond by the State. The current planning period is 2007 to 2014. They have about 2800 units to plan for in this cycle. The State also breaks it up in income category; very low, low, moderate and above moderate. This is based on median household income which she described. She said about 1200 units have been built in Richmond since 2007. The City has made a lot of progress in the very low and low income categories with about 227 built over that time period. They are therefore looking at the remaining RHNA of 1,600 units.

The State also wants the City to look at certain densities and in order to provide efficient housing at a reasonable cost and the City is looking at 30 dwelling units per acre. Based on the vacant land available now, 1100 units can be accommodated for. She presented the vacant land inventory and said they can meet RHNA numbers, and there is even more opportunity for redeveloping under-utilized parcels.

She presented a map showing vacant sites which are numbered by size, APN, constraints, and they are scattered throughout the City. Some major findings include human rights, equity, the need to focus on sustainability, the need to keep affordability in the forefront in terms of policies and programs, tenant rights, foreclosed property issues, housing conditions and preservation of neighborhoods, establishment of a community land trust, and evaluating the inclusionary ordinance.

Goals include a balanced supply of housing, better neighborhoods and better quality of life, expanded housing opportunities for special needs groups, homeless, disabled, seniors, and equal housing access for all regardless of age, race, religion, color and other demographic factors.

Top policies and programs include the annual progress report to make the process transparent in terms of implementation, programs to look at the inclusionary ordinance, evaluating it, looking at best practices, monitoring the effectiveness of the ordinance, and possibly recommending

amendments. The program also includes an annual progress report to provide information in terms of fund balance, use of funds, and fees collected. There is a program to study the feasibility of a community land trust for the City, working with developers to streamline the process while also maintain quality, and several programs to implement strategies for securing funding and utilizing City resources.

In addition to on-line resources, quarterly educational workshops for residents so they understand their rights, resources, and opportunities, looking at the establishment of vacant, foreclosed residential property ordinance to protect neighborhoods over time, and a number of programs that support ongoing successful efforts. She said the City has done a lot of work in rehabilitation, have processed over 300 loans for rehabilitation, the Neighborhood Stabilization Program was successful with over 25 units assisted. There are a number of programs focusing on special needs, incentives for seniors, disabled, offering day care facilities, homeless coordination and a program to bring the City into compliance with SB2; emergency shelters. There is consideration to expand the Just Cause ordinance to apply to all properties. They heard a lot about a rent control ordinance and the Housing Element recommends a study for this to look at the pros and cons of this. There are a number of trigger dates as to when the study gets done, but it is recommended to be completed by the end of next year.

Regarding the schedule and next steps, they are looking for public comments on this draft by October 9th. It will go to the State for review who has up to 60 days. It will return to the Planning Commission based on that review in October or November for a recommendation to the City Council. The Council meeting will then be scheduled in November. They are trying to get the Housing Element certified by the State by January for grant opportunities.

Ms. Wise concluded the presentation, stating the fourth housing cycle is coming to an end and the City needs to be thinking about the next cycle. There is a lot of money potentially coming from the OneBayArea grant program and a requirement to receive monies is a certified Housing Element by January 2013.

Commissioner Soto referred to data around the percentage of homeownership, and he asked for more recent data than from 2010, noting that his observation is that things have gotten worse. Ms. Munson said they looked at census data from 2000 to 2010, and they can attempt to get this updated. Ms. Wise added that the foreclosure information is coming out more readily but for those programs they have, the new information will not change that much. However, this is something to think about with the annual report.

Commissioner Butt said he knows that the rent control ordinance is somewhat contentious in terms of the Housing Element and the mention there will be periods of study, discussion, and he asked what will actually transpire and when. Ms. Wise said these are big policy decisions, there are pros and cons, and rent control could be a benefit for renters but it could also be a drag on the market and not provide new housing. Because of the timeframe for the element and moving it forward, they did not believe they could tackle these issues and come up with good recommendations for the City. They vet pros and cons for the City over a period so as to make a good decision.

Commissioner Butt said there are several major projects in various stages of pre-development. Given this process will play out for six or more months, in the interim, he asked where the City looks for those sorts of inclusionary elements. Ms. Wise said they follow the current General Plan and ordinance until this is adopted. They would then follow this Housing Element. Over time, these are a series of programs recommending updates. The inclusionary is 7-11% and

they would stick to this ordinance until a new ordinance or amendments were adopted. Ms. Munson said they set out a timeframe in the program to have the studies done by April 1, 2013 and then to have outreach through the end of November and a recommendation by the end of December. She said this Housing Element period ends at the end of 2013. Ms. Wise added that the intent is not to create uncertainty for developers; the intent is with the timeframes and dates in the Element to make it specific and clear when the action is going to take place, what are the trigger points and the process and if you want to be involved in that.

Commissioner Reyes said he is disappointed in the data particularly regarding the numbers of homeless in the City of Richmond. The information was captured in 2005 and 2006. During the General Plan he suggested obtaining new data and since then, there have been thousands of people who have been forced out of their homes due to foreclosures. He suggested the information needs to be current, understands they are reaching the end of the 7 year period, but they have waited for the information a long time. He is more concerned now in making sure the City gets the right information and the right data, especially with the homeless population that comes with costs and funding. With the release of funding, the City can do something but he would like to see correct numbers and data. Ms. Wise asked if he was aware of a more updated survey, and Commissioner Reyes said every other year the County does a homeless count in all cities. One will be done this January and one was done January 2011. Ms. Munson said they will follow up on this and include the data from 2011. Ms. Wise added that the Housing Authority attended all workshops and extensively reviewed the documents. They worked together closely, and agreed that the numbers are disappointing and they need the most current information.

Chair Lane noted that a new cycle will start, and she asked what that would mean. Ms. Wise said the housing cycles in California run from 5-7 years. Richmond is in the fourth cycle; from 2007 to 2014. Most jurisdictions have already certified their Housing Elements. The next cycle for the planning period will start next year and it needs to be adopted by October 2014. That runs from 2014 to 2022. The City is eligible for state funds if it has a certified Housing Element and General Plan Element. If this Housing Element is adopted December 2012, the City will probably have another element adopted in June 2014, or a year and one half later. While it is awkward, this is what the City is dealing with.

Chair Lane said in the staff report it was noted that this draft has already gone to HCD as of September 10, 2012 and she voiced concerns that not all public comments have been received. Ms. Wise said HCD reviews Housing Elements. It is the only General Plan element that is reviewed by state law. They need to make sure that all pertinent information is contained in the element, and once submitted to the State, they have 60 days to review it under State law. They hope to get comments back more quickly, and it was not meant to circumvent the public review process but get things moving. They can still take public comments and make modifications, but they wanted to get it on track for certification. They did this in another jurisdiction because of time crunches, and the State has had this happened and they are aware of this.

Chair Lane said there are recommendations concerning potential changes in the inclusionary housing ordinance. She asked if there is data that states how much is currently collected by the City. She is concerned that what is collected is not sufficient to build affordable housing. Ms. Wise said the City collects it and it is about \$1.6 million. It is usually based on an affordability threshold and what the City thinks developers should pay to help make units more affordable. However, there has been recent case law that brings inclusionary housing ordinances under question. Part of the study must look at this case law to ensure the City is in compliance. She noted the City of Los Angeles lost a case called the Palmer decision where it is difficult to levy

inclusionary housing fees on rental projects. So, this is the part of evaluating the City's ordinance to see what other jurisdictions have done so there is no conflict with case law.

Chair Lane referred to the table on Program 32 and homeowner rehabilitation program, and said there was no time period in the description in it. She asked and confirmed it was from 2007 to the present which is the time period for the evaluation.

Public Comments:

Greg Karras, Communities for a Better Environment (CBE), spoke in support of rent control and said it is a matter of environmental justice and health. They are learning more and more that cumulative impacts of exposure to pollutants and economic and housing stress have a cumulative impact on health. He spoke of a time when he was making \$13,500 a year and could afford to live in San Francisco in 1985, but cannot afford rents in Richmond. And, requiring rent control to be studied reminds him a lot of what comes up in toxicology and pollution science. The polluter always says they need another study. He said just about every other city in the area has rent control and it is working. He asked that the Commission not accept this argument and asked that they go forward with rent control now.

Theresa Kaer, California Apartment Association, referred to her letter back in November of 2010 and said she read the entire Housing Element. She works for developers and owners of rental property and gave the Commission the Association's policy on rent control. The CAA believes that rent control does not work. She also provided the numbers from the Bay Area as to what rent is, and Richmond has probably the most affordable rent in the Bay Area. Her letter identifies the social impacts and principles of rent control that do not work. She commended staff because they work with both sides of the issue and if the Commission does not pass the Housing Element, they will lose funds that will truly benefit the City. They will also have to take numbers from this Element and carry them over to the next RHNA cycle.

Commissioner Soto said he received Ms. Kaer's letter. One of the things it talks about is her argument against rent control is to allow market forces to do what they have to do and that leaving business to its own ends will not result in more housing stock that is affordable for renters, and allowing the owners to make a fair profit on their investment. He said in the report in discussing the condition of Richmond housing stock, it talks about 70% of the housing units are over 30 years old and 48.5% were over 50 years old. It indicates that usually anything of that age would require substantial investment in order to maintain quality housing stock. It goes onto discuss a 2008 multi-day field survey conducted by the City of existing conditions in the City's former redevelopment areas and major and rampant deterioration of the housing stock, with much of it being rental property. He asked if Ms. Kaer concurs that landlords allowing their housing stock to deteriorate to code violation levels would result in lower rents that are more affordable for tenants.

Ms. Kaer said no, she is not suggesting this at all, and she does not agree with that analysis; that owners are allowing their properties to deteriorate at the risk of their tenants. There is older property in Richmond and it sometimes becomes cost prohibitive to do everything they need to do. Also, trying to get through the permitting process is incredible to get anything done. She also does not believe there is that much substandard housing and it is the landlord that is creating that condition. There could be some areas where deterioration is both created by the landlord and the tenant, but this is not the issue. What is stated is rent control and it does not work.

Commissioner Soto said in 2004 when this was first contemplated, an ally with the coalition was the East Bay Community Law Center in Berkeley who said that 50% of their landlord/tenant issues were from Richmond.

Doug Gilbert, ACCE, Richmond, said he is in favor of rent control, said the City needs to establish measures for just cause and fair rent for all tenants; one that protects against unfair or arbitrary evictions by defining fair reasons. It should also stabilize and regulate rents. He did not think a year-long study was needed. He quoted from an East Bay Affordable Housing Guidebook, noting that people displaced by foreclosure seek rental housing and the East Bay's high rents continue to rise. A minimum wage earner would have to work 135 hours a week to afford a fair market rent 2-bedroom apartment. Lower income people are forced into substandard housing, doubling or tripling up or moving to other communities, while the very poorest face homelessness.

David Sharples, ACCE, said they put together a REDI housing element policy and priorities that they distributed to the Commission. Through these priorities they are emphasizing the value of keeping families in their homes, keeping homes affordable and safe, and keeping neighborhoods clean and safe. They support rent control and would like to see the City establish measures that include just cause and fair rent ordinances. They do not think a study is required and thinks the City should adopt these ordinances immediately. They would also like the City to establish a Rent Board that would register landlords and hear landlord/tenant disputes. With foreclosure prevention, they encourage effective implementation of the National Mortgage Settlement Act and the California State Homeowner's Bill of Rights by deploying community outreach workers to educate homeowners and tenants about their rights. In terms of keeping homes affordable and safe, they support amending the inclusionary housing ordinance, strengthening provisions to limit circumstances under which developers can pay in-lieu fees instead of building affordable housing. They would also like to see the development of a community land trust. With a foreclosure land fund, they would like to see the City expand the Neighborhood Stabilization Program or leverage additional municipal funding to support the Oakland Loan Fund Program. They would also like to see the City adopt a vacant foreclosed property ordinance. This would be an ordinance that would require the registration of vacant foreclosed properties. They would also like to see the City reduce foreclosure blight by aggressively enforcing SB 1137 to make banks maintain foreclosed properties or pay the \$1000 per day fund.

Commissioner Soto thanked Mr. Sharples for bringing forward the policy and that he is using language that is action oriented rather than planning and studying.

Marquita Ealy, Richmond, spoke about how the Housing Element affects her, blight and foreclosed housing. She thinks the Housing Element should include strong protections against vacancies and blight in Richmond, require that properties go through registration, and that there be strong code enforcement to collect fees from SB 1137. In her neighborhood there are many foreclosures and abandoned homes which create problems, violence, crime and blight. She is also a member of ACCE and the REDI Coalition.

Commissioner Soto confirmed Ms. Ealy lives on South 6th Street. They held a tour with the Mayor off of that street on Virginia back in July regarding foreclosures and blight. It is the Santa Fe neighborhood.

Stephanie Hervey, Iron Triangle, said she is with 4AM which is a collaborative movement to assist with affordable housing. She pointed to the issue of the supply of affordable housing,

homelessness and people with mental disabilities. Often these topics are integrated together, but there are two types of affordable housing—the purchase of affordable housing for homeowners and renters. She does not support a rent control study and thinks there are more sustainable ways to tackle the problem. The City should look at sustainable alternative housing that is much cheaper and quicker to implement than building from the ground up. There are many container type housing and innovative buildings that can be extracted for less than \$50,000. Money spent on a study could house 10 families. Because they are up against this change in cycle and a new cycle is coming up, the City should consider alternative housing options in a year or so for a long term plan. She suggested starting small and integrating programs with other programs that the City and County are funding, such as workforce development projects where they can actually take existing housing inventory and rebuild them. They can teach people in the community and develop Richmond's workforce to go and rebuild houses.

Garland Ellis, Richmond, said he has seen many changes over his 50 years as a resident. One figure identified was that there is 40% rental property in the City which seems excessive as compared to many other cities; however, in speaking with others, it is not too far from the norm. He would say there are many cities that are better off like San Ramon and this makes people wonder why this is. He said ABAG is putting upon many standards that the City needs to increase properties of certain economic levels, and he thinks much of this is based on properties the City currently has and not properties one would see countywide. For example, he asked if ABAG goes to San Ramon and mandates that they have a 50% rental level. Also, when the Housing Element came out, there were over 1,000 units in foreclosure, and these are already ready-built houses. The problem is not housing stock in the City but getting people into the housing stock. It does not matter what economic level people are at. If they all have a feeling that they own the property, whether it is rental or ownership and they have a stake in it, it builds the City's character. There are three large housing developments in Richmond. Unfortunately, it is also the three greatest areas of crime. They list all the different places in the City where there are vacant lots, and he hopes they do not follow the same model of building a big box and put all the low income in a boxed in area and follow the same problem of having a high crime rate in that area. He felt there needs to be more thought in how this is developed, and not just economic and social, but all around so that people feel like they want to be in Richmond and will contribute to the community. Rental property is often considered transitional and unfortunately, people in transition do not always contribute to the City the same way as someone who owns a property, and those that rent need to feel like they have a stake.

Commissioner Reyes said he agrees and said not only do people pay rent but they shop, pay bills, but they cannot just afford to buy a home.

Commissioner Butt said there are some very good points raised by speakers. As far as the inclusionary housing ordinance, he thinks there has been a valid point made about action needing to be taken sooner rather than later. Personally, he does not feel he knows enough about it, so he would be open to an abbreviated study, or if any of the speakers tonight would point him in the direction of resources or statistics, it would be helpful. But he agrees that waiting another 6 to 8 months is not the best idea, but at the same time, he is not ready to make a decision now. To the point of homeownership or similar vested interest and that being of benefit to the community, he totally agrees. He was not sure how one gets there with rental property, but there may be innovative solutions. The problems people have in Richmond are not necessarily unique to Richmond but certainly they are exacerbated more than most communities in the County, and they do need to look at innovative solutions, particularly with the

amount of vacant, foreclosed and abandoned housing stock. It is a major detriment to the entire City in many ways.

Chair Lane commented that the inclusionary housing ordinance is something she has thought about for a while and she feels it does need to be amended to ensure it results in affordable housing. There is also education that could be done to identify what affordable housing is. In terms of a community land trust, this is an idea that has floated around for a long time and it is an interesting model for approaching opportunities to have more affordable housing and especially ownership types of housing. Regarding the Housing Element, she is also interested in ensuring that as they look at the issues of affordable housing, they also ensure it is mixed throughout neighborhoods so it is just not segmented in one area or one neighborhood. In terms of code enforcement issues, she thinks this has been stipulated and there are plenty of recommendations and ideas around that. She asked how the acquisition of existing housing units satisfies the RHNA numbers. She knows there has been talk of looking at existing units because of the high cost to build housing, but she asked how this is viewed.

Ms. Velasco said through the NSP program, the City is actually purchasing the house and they get developers to rehabilitate it. It becomes a restricted affordable, for sale unit. Because of this, it will count towards our RHNA numbers, so it does not have to be a new unit to count towards it.

Chair Lane said a speaker mentioned alternative types of housing and she said if there is any information related to that and how it could allow a City to build these, she would be interested in understanding this better. Ms. Wise said they can include a policy in the Housing Element to this regard. A lot of this would be in the zoning ordinance eventually. They can include some language to promote that type of container housing, manufactured housing, and other options.

Chair Lane said with the issue of just cause and fair rent, this can be debated, but she knows there is a suggestion or recommendation for a study. She asked for the suggested timeline of the study, and she asked if there are any other details related to this. Ms. Wise said the study would be initiated early next year and then completed by the end of the year. The reason they recommended a study is even if the City decided to do an ordinance, research must be done to decide what the ordinance needs to say, how it applies, when the rent board is set up, and all of the logistics. So, the study is not a waste of time, but simply doing that upfront homework before the City would adopt the ordinance. She thinks there is only a short time on this Housing Element before moving to the next cycle, it was a logical first step. One of the speakers said think big, start small, and she thinks the Housing Element recognizes this; that shortly, the City will go into another cycle where they can tackle bigger, longer term issues. They do not have a recommendation one way or the other for the City; it is something that the City must decide what to do.

The public hearing was closed.

Ms. Velasco said staff appreciates all the comments and feedback and welcomes additional comments which should go to Hector Rojas. Staff has provided his email and comments can also be dropped off in person at the planning department. The deadline is October 9th. They will take comment letters and will return to the Commission with a modified version addressing the comments heard tonight and any others staff receives. She believes that a revised housing element would return as early as the Commission's October meeting or the November meeting. Staff is really trying to get this to the Commission for its recommendation in November and to take it to Council for consideration in November/December. It is also dependent upon the City's

conversation with HCD, given that they may require additional information or analysis to comply with state law. However, staff thinks it is a complete package and is hopeful that their comments will be minimal. Staff will also present these comments to HCD and have to work with them on reviewing the revised version as well.

Chair Lane indicated there is no action on this item. She thanked the consultants for their presentation and all public speakers. If there is additional information, she suggested comments in by October 9, 2012.

COMMISSION BUSINESS

4. Discuss Role of Planning Commission on Chevron 8/6/2012 Fire-Related Repair Work

Commissioner Soto said on August 7, 2012, the day after the fire, he called Planning Director Mitchell and asked the question regarding the role of the Planning Commission in dealing with the issue of rebuilding crude unit #4 or the unit that blew up on August 6th, and whether or not a simple item even as a building permit would be required. Knowing they had been given a building permit in the 1970's, it seemed to him that this was subsequently more than a tool shed that got blown down in a high wind, and therefore, a re-examination and re-authorization of that building permit would require greater scrutiny on the part of the Planning Commission, in addition to the City Council. He did not hear back from Director Mitchell and he thought about the deeper ramifications of what is involved in rebuilding the crude unit.

Since the fire, he has learned more about what the unit does, how it is structured, what it is composed of and other issues that he thinks are important for the Planning Commission to understand. He would like to follow up on his question to Director Mitchell and find out if he has any further opinion on it. He was hoping to receive some updated information or be presented with options. Ultimately, as was recently adopted in the General Plan, they would like to use the full police powers of the City of Richmond in order to ensure that any project that Chevron engages in, whether it is the entire hydrogen renewal project or even the rebuilding of the crude unit, that it is done to the highest standards possible to minimize the likelihood of another catastrophe. In light of not having received a response, he wanted to bring it to the Commission to hear his ideas and to also hear what other Commissioners might think on this issue. The issue will be evolving, and they know Chevron will come forward and will want to rebuild the unit. If they behave like the way they have historically, they will evade as much regulation as possible. He wants to ensure they do not allow that.

Mr. Mitchell apologized for not responding to his question. There have been a number of public meetings and there is one this coming Monday, where other regulatory agencies out at the facility have reported out on their investigation processes. What staff has done is to make sure that once the other regulatory agencies visited the site, that they establish communication between those agencies and staff. They have a plan review engineer who works at Chevron, as well as an inspector and they review aspects of activity at the facility, mostly related to structural work. Much of the regulation of the processing systems happens at the State and federal level. An exclusion zone around the fire impacted area was established by the CSB, CalOSHA, and Chevron. As they release sections of the exclusion zone, the plan check engineer can issue permits for demolition of those sections. Chevron has not yet come to staff with a specific plan for what they will need to rebuild, and without that, the City is not in a position to say whether there is going to be a discretionary approval of that.

Mr. Mitchell stated that the refinery continues to operate; there has been no interruption of the facility that would challenge a conditional use. If someone shuts a facility down for a period of time, they may have to come in for a new CUP, but if they are operating the facility within existing rules and regulations, their CUP continues. Therefore, the City must see what the final outcome and plan is going to be as far as rebuilding or reconnecting the crude unit, and then the City can determine what discretionary approval the Planning Commission and City Council have, if any.

Commissioner Soto said in terms of what the Commission's regulatory capacity will depend upon what Chevron is asking for. His concern is that if demolition permits are issued and they clean up the area of destruction and apply for rebuilding permits, they may believe they have an existing CUP and do not need one. He asked what intervention the City would have to indicate that the reports are not in from regulatory agencies that led to the catastrophic event that nearly killed 20 people. Compromised equipment would seem to be a violation of their CUP, and this would call into question as to whether they would be entitled to move forward with any construction without further review on the part of the City. Mr. Mitchell said he believes the best place to ask these questions would be at the community meeting.

Commissioner Soto said frankly if it were not for the Chemical Safety Board, they probably wouldn't know as much as they do now. They have been duly lauded for their transparency in their investigation, but at the same time, they have indicated it may take up to a year or two to conclude, and they are strictly advisory and not regulatory even though they may have the broadest scope of investigation compared to any of the regulatory agencies. He asked how this plays out. It would be fruitless on the part of Chevron to entertain applying for a rebuilding permit until all the studies have concluded and any recommendations policy-wise or operation-wise from the agencies would have been already presented.

Mr. Mitchell said the City will be moving along with those groups and following past practice as far as how these things are handled. Portions of the exclusion zone are being released bits and pieces for demolition after they have documented it, but they do not yet have enough information to be able to say something will need a discretionary or environmental review, so they will have to see what returns.

Commissioner Soto asked if there would not be any entertaining of an application from Chevron to rebuild Crude unit #4 until all investigations have been completed and recommendations presented. Mr. Mitchell said he did not know. He is sure that there is some repair work that can happen as they move toward the flash point, and again, all of this will fall within parameters established by the regulatory agencies. The City's mission now is to track what is going on and coordinate with those agencies that are at the refinery now.

Commissioner Reyes thinks the question is whether Chevron can simply rebuild things without the City's review and approval. Ms. Velasco said one of the things staff is still trying to get from Chevron is what has been damaged, how much of it has been damaged, and what work will be covered by a permit. Part of it is, as Mr. Mitchell has mentioned, an exclusion zone was created in an agreement between Chevron and the agencies out at the site, and Chevron has not had an opportunity to go in and access the extent of the damage. As recent as yesterday, areas of the exclusion zone are being released and Chevron can start to go in and assess the damage. There is the potential that the damage is 10%. They can come in and obtain a ministerial permit and there will be no discretionary action by the City. But they could turn around and have a proposal that potentially expands the capacity of the crude unit or propose modifications that may trigger a discretionary action by the Planning Commission or the City Council, plus

environmental review. She thinks many agencies, including the Air District, are still at the point of not knowing what is being proposed for their repair work and it is too early to say what action will be taken.

Commissioner Reyes asked if the 10% threshold written or codified in some way to require review. Ms. Velasco said the building code does have some specifications and they are looking at that. She thinks that with the 2007 fire, there was no discretionary action, so they are looking at the past, but working with the agencies to see if any new regulations or requirements may be triggered.

Chair Lane asked and confirmed that as more information is disclosed, staff can report this back to the Planning Commission. As part of the community meetings, staff has been trying to provide information to the public as to next steps, as well.

Commissioner Reyes said he is beginning to wonder whether or not there should be concern about the process. In going back 6 or 7 months when Chevron proposed new tanks, and he thought this Commission sent a strong message that they expected the best technology, the newest and best safety measures, but he believes there is something to learn from past incidents. If the Commission plans these projects, they have a commitment to those businesses, employees, and residents that they have partners in the community to have the resources to make Chevron the safest place possible. So, he thinks the Commission has established safety first regardless of something minor or major. He thanked Commissioner Soto for bringing this forward as the Commission wants to prevent any circumvention, given history.

Commissioner Butt said he thinks the discussion has opened up many questions. They are all eager to get clarity and figure out how this will work. He thinks everyone in the end wants the same thing—to see to it there is a process to make sure that the refinery and units are operating the safest way possible, and to the degree that the City and its Commission and Council has an opportunity to play a role in that. To echo what was said, he thinks it would make a lot of sense on an on-going basis for staff to update the Commission as a transparency to the public on what the on-going situation is. In terms of clarifying the regulatory process, he asked what the role is of discretionary review if any. He asked if the refinery or parts of it operate under an existing CUP and if so, what the conditions are. There was talk about percentage of damage to the unit. He is curious as to how this calculation works and he asked if the unit is treated as a building, the whole refinery, or a unit. He asked staff to share information moving forward.

Chair Lane restated that the Commission's desire is that they want to be thoroughly informed as to the process of what is going on, the Commission's role and information from the various agencies as to what will occur next.

Mr. Mitchell noted Monday night's meeting is from 6:00 to 8:30 p.m. at the Richmond Auditorium. County Health Services, BAAQMD, Chemical Safety Board, CalOSHA, and the EPA will be participating. The Mayor is hosting this. People should RSVP at 620-6512, and he said staff will keep the Commission updated.

Public Comments:

Greg Karras, CBE, asked the Commission to reconsider its recommendation and join CBE in asking the City Council to take action to direct staff to ensure the City uses its full authority to make sure the unit is rebuilt safely. The Chevron disaster is a stark warning that if they do not act now, the next one could kill. It is also a reality, and this is demonstrated already, that design

played a role in the August 6th disaster. At least one design problem is inadequately corrosion-resistant materials of construction for the operating conditions, which included increasingly corrosive higher sulfur crude as a factor in Chevron's piping problems, including the August 6th incident. He asked what would happen if they do not act and rely on the other agencies. In 2007, Chevron's last major crude unit fire in the same unit, Chevron rebuilt the unit and had it operating before it even reported any of the findings of its root cause analysis. This resulted in less corrosive resistant materials, including the carbon steel pipe that CSB is telling us burst from corrosion on August 6th begin left in place. If this happens again, the City's inaction will contribute to a significant situation that could next time kill people. Therefore, these are reasons why he asks the Commission to reconsider and join CBE in asking the City Council or recommend to the City Council that they should direct staff to use its full authority to make sure this does not happen again. Also, staff raised two different scenarios that are contradictory to each other. First, Mr. Mitchell suggested waiting until all of the results are in before any permit to rebuild is granted. This is not what CBE wants. They would like to see the unit be rebuilt quickly as long as it is done as safely as possible. It is possible that the physical causal parts of this could be done way before the full investigation. There is a health and safety reason why it should be done quickly which is that the refinery is running out of balance now without its crude unit. Ms. Velasco suggested, are there modifications or design flaws to the unit. He said we know already there are design flaws and the materials of construction are one that repeatedly caused piping failures, including this incident. Those design flaws interact with the change in use, refining higher sulfur crude. He would say that it would be totally irresponsible for Chevron or anyone to try and rebuild the unit without fixing those design flaws, and this is a new project. Even if they tried to rebuild it, there are design flaws and this is a potentially deadly violation of the building code. The Commission should have discretion because this is a safety issue.

Commissioner Soto asked Mr. Karras to explain for the lay person about what the implications are of the higher sulfur content crude are as a corrosive agent on carbon steel piping and what other kind of design modifications could occur that would minimize the design flaws or if it means restricting the type of crude.

Mr. Karras said there are conferences all the time about corrosion in refineries and corrosion by crude factors. These things are studied and addressed by the industry all the time because they lose so much money at it, but that does not mean they always do the right thing about it. The main point is that whether it is sulfur or another agent, many of them come from the crude and other operating conditions. The parts of the crude unit that have repeatedly failed this time with the gas oil outlet pipe and the spooling pipe with the 2007 fire. The temperature runs so high that it is highly corrosive to steel metal. One of the solutions is that they should use different alloys with more chromium which are resistant to that type of corrosion. There are other types of corrosion. In the Tosco 1999 crude unit fire that killed 4 workers, one of many problems which were a causal agent was a change in the crude. They went to heavier crude. It overloaded their desalter unit and corrosion plugged some of the valves that contributed to that fatal incident. There is a refinery in Port Arthur, Texas. It was the biggest refinery in the country for about a month, and they now will need to rebuild the entire thing because of corrosion. It is a big deal but they are a for-profit industry and they maximize profit. They will do the health and safety things required by government, so they could use more corrosion resistant material. The crude quality change is known to cause problems in refineries, and it has before in 2007. There could be other factors, and solutions are in materials, and if the City does not use its land use authority, no one else will.

Commissioner Reyes asked who will ensure the new design will be safe. Mr. Karras said the Chemical Safety Board comes only when there are bad incidents. The good news is whether

you call them the least bad or the best there is, you will not get better help identifying causes and solutions, and he would encourage the Commission in joining CBE in asking them to do a thorough job as quickly as they can and help get all the information they need. Crucially, the Chemical Safety Board is the best help they can get here in terms of investigation, but they have zero authority to make Chevron or anybody do anything about the results. From experience, the Commission knows that when the City sat back, all other agencies involved in the 2007 fire let them go ahead and rebuild it wrong and rebuild it fast. So, he suggested the City use its land use authority.

Roger Lin, CBE, said in 1997, the refinery replaced the blow down drum stack because it was about 40 years old and needed extensive repair due to corrosion. Part of the decision to replace the blow down drum without modifications was to maintain profits so the refinery could continue to operate without triggering the new source review EPA standards. This was the BP Texas City Oil disaster and he presented the final investigation report from the Chemical Safety Board. Fifteen people died in this incident and thousands were injured. The Planning Commission definitely has the authority to push the City to do the right thing and urge the Council to require the best standards and have the best equipment when the rebuild occurs which would prevent a disaster. They do not know what the Air District will require. They do not know what EPA will require and if there is the possibility to have the authority here to dictate the best technology possible and the potential problems and risk could be catastrophic again, then he asked why base everything on a "might" or a "maybe" when the Commission has the authority and the Council has the full police power to do the right thing. He urged the Planning Commission to join CBE.

Commissioner Soto asked in Mr. Lin's opinion, what is the source of the authority for the Planning Commission to make these recommendations in a scenario where it is determined by staff that they actually do not have a review because it is only 10% of the unit destroyed and therefore, they get ministerial permission. He asked if the Commission has authority to disagree with that and block that kind of move. Mr. Lin said he does not think the 10% is a possibility if they look at replacing the pipe on its own. The unit is 35 years old, so the whole unit is going to need substantial reconstruction. It goes all the way back to the California Constitution; the police power is filtered down by the Constitution to local government, and most recently in the General Plan, Richmond will use its full police power to guarantee the health, safety and welfare of its citizens. He cannot see a clearer example where this should be exercised.

Ms. Velasco clarified that the 10% number was an arbitrary number. She said they do not know what the extent of the damage is and nothing has been presented, but it was just to convey a point. Commissioner Soto asked what the threshold is for making that determination, and Ms. Velasco said this is something she thinks staff would have to report back on.

Chair Lane said this relates back to Commissioner Butt's comments and greater clarification on information.

Commissioner Reyes said if it is not reams of information, he asked if it was possible to look at the pertinent CUPs for Chevron and he asked that staff email it to the Commissioners. Ms. Velasco said the original refinery was here before everybody was here, and the refinery itself may not have a CUP that covers everything, but as soon as some of the City's ordinances came into place that began to trigger discretionary actions by the City, which the renewal project was one, along with the tanks, there may not be a history that dates back to the original establishment of the refinery.

Mr. Privat said there are boxes and boxes of individual building permits that have been reviewed by the City and full time staff at the refinery. There was no such thing as a CUP that governs the operation of the refinery from 1905 or 1975.

Chair Lane suggested conclusion of the item and asked that Commissioners talk with public speakers after the meeting, if needed.

5. Discuss text changes made to the Draft Richmond General Plan 2030 presented to City Council after Planning Commission action

Commissioner Soto said he received correspondence and a phone call from former Commissioner Jeff Lee on August 24, 2012 wherein he brought to his attention a number of language changes between what the Commission adopted resolution for the General Plan and that which was either presented and/or adopted subsequently by the City Council. It seemed that the consistent theme was to dilute the intent of the language. His understanding was that anything substantively changed by the Council would have to return to the Commission for re-examination. And if so, it was never brought to the Commission's attention.

To be specific, when it came to the issue of the bicycle and pedestrian access, the Commission adopted language that said "give preference to development and transportation projects that emphasize design elements for bicycle and pedestrian access." The final language got changed to "encourage and support" as opposed to "give preference to". To him, this is a substantial change in the language and intent. Similarly, with the formula restaurant issue, the Commission said "expand zoning restrictions on formula restaurants to all neighborhood commercial districts with high rates of obesity related diseases" and the language was changed to "consider expansion of zoning restrictions...." This substantially changes the intent, as well. Under the Historic Resources Element, the Commission adopted language that said, "In 1846 the United States initiated a war against Mexico" and it got changed to "after the Mexican American War Mexico ceded California to the United States" which substantially alters the intent of the Commission's language. Also, under work credits; "Work with school district and other public agencies to develop community service credits for students participating in supervised park maintenance programs." This got changed to "Work with school district and other public agencies to develop community service credits for students." This clearly changes the condition which is to participate in supervised park maintenance programs.

He questioned when this happened, who did it, and why was not the Commission notified. The last one relates to the food desert issues; "Develop a citywide food ordinance to do the following: Identify and eliminate food deserts, conduct and publish an inventory on the availability and quality of food citywide, provide space for and clear labeling of organic food at farmer's markets and Richmond and to restrict and reduce the proliferation of fast food in restaurants, convenient stores and shops." This was changed to state, "In collaboration with Contra Costa County Health Services conduct an assessment of food quality and availability in Richmond. Use the assessment to develop citywide food access food strategies to reduce the number of food deserts throughout Richmond." This substantially changes the content and intent. Therefore, his purpose of bringing this forward was to follow up on former Commissioner Lee identified and ask for an explanation on when, how and why these happened and why the modifications were not brought back for review.

Mr. Mitchell said General Plans are not updated very often and for good reason, this plan took the City 6 years, countless meetings, and lots of letters and conversations. After the Commission adopted it resolution, staff documented and wrote the material as it was passed

and brought it back to make sure it was correct. Chair Duncan at the time looked at the resolutions and agreed it was what the Commission had adopted. These resolutions then became public in November. The Council adopted the General Plan in April, so between the time the Council and the Planning Commission adopted the plan many things occurred. Speakers commented and submitted letters to the Council. Staff presented to the Council the Planning Commission resolutions as they were adopted, presented a set of staff recommendations, and staff's recommendations modified some elements of the Planning Commission resolutions to either make them legally defensible or attempt to capture the intent of the resolution, but also to make it either broad enough or far reaching enough to be in a General Plan. Some language is too specific for a General Plan and what staff tries to do is come up with what is intended and project that language. The Council then took the resolutions, staff recommendations, came up with their own language and this was the General Plan they adopted. Substantial change as staff understands it has to do with land use. If for example there was a difference having to do with a land use designation this would come back to the Planning Commission. But, the Council is free to modify language and it does not return to the Commission when language is changed. He thinks that for a book the size of the General Plan and be down to the list of differences is pretty good, when considering the amount of time it took to adopt.

Mr. Privat clarified that pursuant to the Government Code, only a substantial modification that has not been previously considered goes back to the Planning Commission. None of the changes highlighted by Commissioner Soto could be construed in any way as not having been previously considered. The City Council was in its right to make the changes that it did.

Mr. Mitchell added that the City does not have a formula restaurant ordinance and to say they will expand one that they do not have is not correct. They need to come back and say, "consider adopting a formula restaurant ordinance" and then go to the next step. The discussion came up around the Subway that wanted to go in Pt. Richmond which went up to the City Council. Right now there is language being crafted to see if one can be developed that would be narrow enough to try and restrict some restaurants but not be so broad that it restricts the restaurants people do want.

Commissioner Soto questioned what the staff recommendations were subsequent to the Commission's resolutions that were forwarded to the Council. Mr. Mitchell said staff presented what it thought was either legally defensible recommendations or what staff felt captured the intent or extended it out over a longer period of time. They were essentially looking at making sure the language that the Council could was in fact General Plan language. Again, the Council picked most of the Commission's recommendations, picked some of the staff recommendations, and they also made their own determinations and modifications. The community also communicates with the Council.

Commissioner Choi said during that time there was a considerable campaign misrepresenting a lot. There was a mass email stating that the Planning Commission was not being transparent so it is disturbing to know that things can happen behind the scenes.

Chair Lane said her concern was protocol and process. The Commission had an understanding that the resolution it approved would not be changed. Once it got to the City Council, the Commission understands they have the full authority to change anything they wanted to, but prior to it going to the City Council, she did not think the resolution the Commission agreed upon would be modified. When she observed the meeting and the Planning Commission were referred to as the 'evil doers' she did not hear the Council making any changes related to the

stated items, but rather things that she heard things that the Planning Commission suggested be taken out and put into other processes, such as the Climate Action Plan. These were the things they addressed publicly. So her question is whether the Council made the changes or staff made the changes, and she said the Commission was not aware that the changes were made until this was brought to her attention.

Mr. Privat noted that both the Commission and staff's resolutions were presented to the Council at the same time. They chose to modify them on their own.

Commissioner Reyes said a common courtesy would be to inform Chair Duncan that in case the Commission did not know, of the changes that were made. Chair Duncan would have let Commissioners know immediately and if a meeting were in order, they would have held on if they thought it was that important. He said he believes that the City was caught up with how wonderful it was to get the General Plan approved, but not the Housing Element. He was not happy with the process, read the document twice, and is disappointed that these things occur. They discussed how monitoring is different from enforcing and being required to do things.

Commissioner Soto said under the justification that staff has presented, he asked what is legally indefensible about "giving preference to" versus "encourage and support". Mr. Mitchell said it is very high risk language for a public body to say they will give preference to anything. Commissioner Soto felt that preferences were given all the time and he asked what makes land use related to bicycle and pedestrian access any different. Mr. Mitchell said it is giving preference in a public right-of-way. The Bicycle and Pedestrian Master Plan does this and this is the way to address it. They try to stay away from language that states "give preference" and this was one they wanted to fix. They got to where they wanted to go in that they have a great Bicycle and Pedestrian Master Plan. Commissioner Soto said the City gives veterans a preference in hiring, particularly law enforcement, and he asked what is indefensible about that. Mr. Mitchell said at the planning counter, when someone brings matters involving a land use, staff must respond to them equally. They must look at the implementation of the City's directives and carry them out fairly.

Chair Lane closed the discussion, stating there will be other opportunities for the Commission to be making recommendations. As a common courtesy and from a legal standpoint when it is out of the Commission's hands, if there are changes made, she asked that staff make the Commission aware of them.

Public Comments:

Garland Ellis, Richmond, stated the public attended workshops, Planning Commission hearings, City Council hearings, and heard many issues brought up debated by the City Council and changes made by them specifically over a period of two meetings. It was a public hearing and announced and everybody had access to it, and Commissioners were actually in attendance at those hearings. Under planning law, the City Council has the final say, so why the Commission is questioning it at this point is another issue. He referred to the General Plan designation of planning area and the former Zeneca area south going down to the former Southern Pacific gun range, and said it was an area that the Commission indicated would be discussed at a later time. It was stated this area would be clarified later when more information became available for the LBNL. Many of the public comments were not given because the area was going to be discussed later even up to the time of the Planning Commission. They gave limited comments but were told it would be a planned area for something later on. He asked if there is clarification for the General Plan designation for that area at this time, or is it something the public will have

time for input in the future and will it go through the full complete process where they can discuss what the clarification for this area should be, and that will affect future zoning for that area. He asked if it will be light industrial, housing, open for restaurants, and said none of this was ever discussed in the past, and they are starting to hear rumors regarding this area where it is now unclear as to whether they can provide input as stated in the past, and he asked for clarification.

Ms. Velasco questioned which area Mr. Ellis was specifically referring to, and Commissioner Butt clarified he was talking about the southern-most wedge shaped area that was owned by Southern Pacific and used as a shooting range at one time, including the old Zeneca site. He learned today that the City was awarded a grant to initiate a specific plan to include those areas, so there would be an open and public process.

Ms. Velasco said as part of the General Plan that was adopted, there was an original concept that they would do planned areas for the north shoreline and south shoreline, but what was ultimately adopted was that there were land use designations. The City Council did direct additional study of the south shoreline area. The City received a grant from MTC to do a specific plan in the south shoreline which will cover those areas, along with additional areas around the LBNL site. Staff anticipates kicking off that process in January and it will be about a two year process. They will start the consultant selection process before starting the work.

Mr. Ellis asked if there was clarification for the area yet, other than the light industrial area. Ms. Velasco said there is a General Plan land use classification assigned to those properties. It is a combination of business light industrial along with open space, but she can provide the maps to Mr. Ellis and set an appointment to go through it. The zoning code update is what people are still looking for, as this will happen through a phased process, with the Living Corridors project being the first phase and the additional specific plans that they have received funding for to also help to fill those gaps in addition to updates.

Chair Lane affirmed that she believes that the Planning Commission understood at the time that its recommendations were advisory and this is not the issue. They knew that the Council had full authority to do what they wanted. She thinks there was some clarity needed on what occurred in between.

6. Reports of Officers, Commissioners and Staff

Ms. Velasco announced that there will be a public meeting on Tuesday, September 25, 2012 to discuss major interchange improvements proposed around San Pablo Dam Road and McBride and also El Portal. The meeting will occur at 6:00 p.m. at Riverside Elementary School, 1300 Amador Street, San Pablo.

Mr. Mitchell acknowledged the work of Hector Rojas on the General Plan. He would have been present at this meeting but his mother passed away after a long illness. He was also recognized as Employee of the Year for his dedication. He made this a personal effort and the General Plan is dramatically better than what it would have been because of his efforts. He hopes the Commission will consider closing the meeting tonight in memory of his mother, Filipa Rojas.

Commissioner Choi said he was saddened by the news and felt Mr. Rojas is an excellent choice for the award.

Commissioner Butt commended Mr. Rojas on his service to the City and was saddened by his loss.

Commissioner Willis had no report.

Commissioner Soto welcomed Commissioner Willis to his first meeting, offered his condolences to Mr. Rojas and congratulated him at the same time on his award which was duly earned. He also announced that October 6th will be the North Richmond Shoreline Festival at Point Pinole Regional Shoreline Park from 11:00 a.m. to 5:00 p.m. There will be free food to the first 1,000 people, family-friendly activities, and a free shuttle service picking up people at the Richmond Civic Center, San Pablo Civic Center, and at the Center for Health in North Richmond. He announced on October 3rd at 10:00 a.m., there will be a march on Chevron starting at the Richmond BART station, a meeting contingent at Washington School and going onto the gates of Chevron to demand justice in light of the fire. He attended the Climate Action Plan event the evening before. Concerning to him is what was missing, stating there was nothing regarding regulations on refinery emissions and specifically refinery-related issues. He was pleased to hear that this was a political decision made, but it is still bothersome.

Commissioner Reyes offered his condolences to the Rojas family. He also congratulated Mr. Rojas, as many people have known Hector since he was in junior high school.

Chair Lane said the Lawrence Berkeley National Laboratory will hold a meeting on October 4, 2012 at the Richmond Auditorium from 7:00 to 8:30 p.m. regarding a long-range development plan workshop. She congratulated Mr. Rojas for him being named Employee of the Year which was well deserved. She also recognized the significant work by all staff on the General Plan and its implementation.

Adjournment - The meeting was adjourned at 9:42 p.m. in memory of Filipa Rojas.