

RICHMOND, CALIFORNIA, December 12, 2006

The Regular Meeting of the Richmond City Council was called to order at 7:40 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-1, G-2, G-4, G-5, G-6, and G-11 from the Consent Calendar. Item K-3 was withdrawn to be discussed in February 2007, and K-4 was withdrawn to be discussed in January 2007.

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. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION – Techno Coatings, Incorporated (Swinerton) v. City of Richmond: City Council gave legal direction to legal counsel.

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

PRESENTATIONS, PROCLAMATIONS, AND COMMENDATIONS

None.

OPEN FORUM FOR PUBLIC COMMENT

Steven Blodgett gave comments regarding building a BMX bicycle track in Richmond.

Renatta Simon gave comments about two recent shootings in the North and East Neighborhood and various stolen vehicles. Ms. Simon stated that Corky Booze and Shawn Pickett were very helpful and responsive the neighborhoods concerns.

Mike Ali stated that appointing Corky Booze to the Council would be the democratic and correct thing to do.

Freddie Jackson stated he met Corky Booze at the tent cities and Mr. Booze was out there every day. Mr. Jackson stated that Mr. Booze deserves the vacant City Council seat.

Corky Booze thanked all the persons who voted for him

and thanked Ludmyrna Lopez for running a clean campaign. He also thanked Tom Butt, Jim Jenkins, Nat Bates and Mayor-Elect McLaughlin. Mr. Booze stated that even if he is not on the City Council, he will always speak for the community.

James Jenkins stated that Corky received the next highest votes after Ludmyrna Lopez and deserves to be appointed to the Council.

Jonathan Weaver asked the City for support and assistance to help his team, the Richmond War Angels, to be allowed to use the Richmond High football field as their facility.

Charles Newsom stated that tent cities would not have been possible without the help of Corky Booze and asked that the Council appoint Mr. Booze to the City Council.

Donald Seals expressed his support for the appointment of Corky Booze to the City Council.

Kathy Robinson asked the Council to support Corky Booze for appointment to the City Council. Ms. Robinson asked that a commendation or proclamation be presented to the organizers of tent city. Ms. Robinson stated her concern that Richmond Sanitary Service's termination of the free garbage pick-up day has greatly contributed to illegal dumping throughout the City.

Gary Bell congratulated Mayor-Elect McLaughlin and expressed his support for appointment of Corky Booze for Council based on his wealth of knowledge and contact with the community.

Patsy Green stated that Corky Booze should be appointed to the City Council.

Jackie Thompson feels that Corky Booze has earned a position on the Council. Ms. Thompson also stated that loitering issues need to be enforced more aggressively by the police.

Adrienne Harris congratulated Mayor-Elect McLaughlin, the other candidates who won the election and Councilmember Griffin for his many years of service on the Council. Ms. Harris asked that the Council appoint Corky Booze to the City Council.

James Cash stated that the Richmond Steelers had a bowl game and were unable to play because the gate at Contra Costa College was not opened. Mr. Cash supports Corky Booze for appointment to the Council and also stated that truancy in the City needs to be addressed.

Rev. Andre Shumake asked for the Council's support in appointing Corky Booze to the Council.

Regina Shields stated that because of Corky Booze, she has been encouraged to come to Council meetings and express herself. Ms. Shields asked for the Council's support in appointing Corky to the Council.

Steven Goins stated that he was part of tent city and that after the election it seemed that the support disappeared. He

stated that Corky Booze remained and supported the tent city movement.

John Monks congratulated Mayor-Elect McLaughlin and asked that the Council support Corky Booze for appointment to the City Council.

CONSENT CALENDAR

On motion of Vice Mayor Viramontes, seconded by Councilmember Marquez, all items marked with an asterisk (*-) were approved by the unanimous vote of the Council.

A proposed introduction of an ordinance amending Richmond Municipal Code Sections 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) was presented. Councilmember McLaughlin stated that she does not support this increase because the employees of the company do not receive a CPI increase. Jana Culverson, Richmond Sanitary Service, replied that the salary increases for employees are given based on CPI or better. On motion of Vice-Mayor Viramontes, seconded by Councilmember Marquez, said ordinance received first reading and was laid over one week for second reading, by the following vote: **Ayes:** Councilmembers Bates, Butt, Griffin, Marquez, Thurmond, Rogers, Vice Mayor Viramontes, and Mayor Anderson. **Noes:** None. **Abstentions:** Councilmember McLaughlin. **Absent:** None.

A proposed Resolution certifying the Environmental Impact Report (EIR) adopting the Mitigation Monitoring and Reporting Program, and approving a General Plan Amendment for the Point Richmond Shores Project, and adopt the ordinance rezoning the project site to Planned Area (PA) District was presented. Richard Mitchell, Planning Director, stated that Toll Brothers has had some concerns regarding an architect that was suggested by MIG Consultants to assist the team MIG Consultants and how they want to proceed with the design charrette. Councilmember Marquez stated that the motion he made on November 14, 2006, was not reflected in the staff report. The following was not included in the resolution: *resolve an amendment to the environmental impact report; a second assessment of the pier was to be completed once all the equipment and structures were removed and if the second assessment indicates that repairs are required, Toll Brothers and the Redevelopment Agency would enter into negotiations on cost; require to complete the Bay Trail portions phased in simultaneously with park development on the project and require the Redevelopment Agency and Toll Brothers to work with adjacent land owners for owner approved access for the commuter link on the north of the project site; a design charrette to be facilitated by a consultant considering the design of the project.* Mr. Mitchell replied that the issues regarding the pier and the Bay Trail would be conditioned to the design. The language would be included in the final project recommendation. When the charrette process is completed, conditions would be included specific to the project. City Attorney John Eastman stated that the motion was carefully reviewed by the Attorney's Office and the resolution as presented was as faithful to the motion as could be made without giving any legal argument to the opponents of the project. The part about entering into negotiations with Toll Brothers is not binding and it is unknown

what will come out of the negotiations. Other portions that were not included were considered to not have a direct correlation to the General Plan Amendment and Zoning Ordinance, but there could be a nexus with the subdivision map and the design review approval. Councilmember Bates asked how a third architect became involved and how much it will cost. Mr. Mitchell replied that the architect would serve as an objective third-party reviewer of the project and the cost of the architect would be \$64,000. Alicia Guerra, Morrison & Foerster, stated that Toll Brothers have the following three concerns: **1)** Councilmember Marquez's motion noted as an amendment to the Environmental Impact Report a second assessment of the Pier is to be completed once all the equipment and structures are removed. As currently drafted, the agenda report, resolution and mitigation monitoring and Reporting Plan require the Project Sponsor to implement all mitigation measures at its sole cost. **2)** Councilmember Marquez's motion noted as an amendment, a requirement to complete the Bay Trail portions phased simultaneously with park development on the project and required the City and Toll Brothers to work with adjacent land owners, for owner approved access for the commuter link to the north of the project site. As currently drafted, the agenda report suggests that the City Council directed Toll Brothers to consider all San Francisco Bay Trail issues during the design charrette. This is well beyond the scope of the original motion. **3)** Councilmember Marquez's motion noted a design charrette to be facilitated by a consultant considering the design of the project. Toll is concerned that the scope of the design charrette has expanded beyond the original intent of the motion. Toll Brothers believes that some simple land use parameters need to be set in advance. The design charrette should consider the design of an attached multi-family, for-sale residential project, only. Additionally, Toll Brothers does not feel that it is necessary or appropriate to include an additional third party architect in the design charrette process. Bruce Beyaert, Trail for Action Committee, (TRAC), stated that there is a 150 yard gap between the northeast corner of Point Richmond Shores and the west side of Brickyard Landing. There is no issue on the northern side of Point Richmond Shores because the City of Richmond has a 50 foot wide street easement on that side. Mr. Beyaert urged the City Council to adopt a mitigation measure tonight that would be enforceable to require Toll to build that 150 yard gap if they get permission from the landowners. A motion was made by Vice Mayor Viramontes, seconded by Councilmember Marquez to certify the EIR, the mitigation monitoring program, including Councilmember Marquez's amendment dealing with the pier, and the trail. Approved the General Plan Amendment for the Point Richmond Shores Project, adopted the ordinance rezoning the project site area district authorized the charrette process with Daniel Iacofano of MIG for the facilitation of the charrette process for \$64,000. A substitute motion by Councilmember Butt, seconded by Councilmember Rogers to hold this matter over to the first meeting in January 2007 in order to give all of the parties involved time to resolve issues of what and who is going to be involved in the charrette process and fully develop the conditions about the Bay Trail and the Pier failed by the following vote: **Ayes:** Councilmembers Butt, McLaughlin and Rogers. **Noes:** Councilmembers Bates, Marquez, Griffin, Thurmond, Viramontes and Mayor Anderson. **Abstentions:** None. **Absent:** None. The original motion was passed and **Resolution 131-06** was adopted by the following vote: **Ayes:** Councilmembers Bates, Griffin, Marquez, Thurmond, Viramontes, and Mayor

Anderson. **Noes:** Councilmembers Butt, McLaughlin, and Rogers. **Abstentions:** None. **Absent:** None.

*- Authorized an amendment of the Existing Consultants List to add Aspen Environmental Group, Eichleay Engineers, Questa Engineering, and Steve Hurst, as approved consultants, for Planning Department technical studies.

A proposed resolution authorizing the staff to proceed with preparations to enter into a Forward Interest rate Swap Agreement with Bear Streams Capital Markets, and appoint bond counsel, financial advisor, and swap advisor was presented. (*Councilmember Thurmond left the meeting*). Vice Mayor Viramontes asked why the rate swap is planned to be used rather than the conventional refinancing and what the cost savings would be. Jim Goins, Finance Director replied that the bonds cannot be restructured until 2012. In order to do a forward in this manner, the City must go out into the market place and is the able to obtain the best interest rate. On motion of Vice Mayor Viramontes, seconded by Councilmember Marquez, adopted **Resolution No. 132-06** by the following vote: **Ayes:** Councilmembers Butt, Bates, Griffin, Marquez, McLaughlin, Rogers, Viramontes, and Mayor Anderson. **Noes:** None. **Abstentions:** None. **Absent:** Councilmember Thurmond.

A proposed resolution renewing standing orders/outline agreements for technology related goods and services from various vendors in an amount not to exceed \$150,000 per year per vendor for fiscal years 2006-2007 and 2007-2008, or, if a Finance Committee meeting is scheduled prior to the December 19, 2006 City Council meeting, refer the matter to Finance was presented. (*Councilmember Thurmond returned to the meeting*). Corky Booze gave comments. On motion of Councilmember Griffin, seconded by Councilmember Rogers approved **Resolution No. 133-06** by the following vote: **Ayes:** Councilmembers Butt, Griffin, Marquez, McLaughlin, Rogers, Viramontes, and Mayor Anderson. **Noes:** Councilmember Bates. **Abstentions:** None. **Absent:** Councilmember Thurmond.

A proposed extension of the Management Agreement with Stevedoring Services of America (SSA) for a period of two years, with three allowed one-year extensions, for an annual lease payment to the Port of \$1,472,000 was presented. Corky Booze gave comments. Councilmember Butt stated that all aspects of this agreement should be presented all at the same time for review and approval prior to approving this extension tonight. Councilmember Butt expressed concern over the proposed use of 1.5 acres of land owned by the Orton Group on Ford Building property proposed to be used as parking by the Port. On motion of Councilmember Bates, seconded by Councilmember Marquez approved the agreement extension by the following vote: **Ayes:** Councilmembers Bates, Griffin, Marquez, Rogers, Viramontes, and Mayor Anderson. **Noes:** Councilmembers Butt, McLaughlin and Thurmond. **Abstentions:** None. **Absent:** None.

*- Accepted the work completed by Dutra Construction Company for the Inlet Dredging and Pavement Project at Port Potrero Marine Terminal. The work was completed on November 15, 2006, for a total amount of \$1,525,360.

*- Adopted **Resolution No. 134-06** accepting a 15-foot Wide utility easement from Marina Westshore Partners for the purpose of maintaining and operating an 8" sanitary sewer line across their property adjacent to Marina Way South - Engineering Department (Rich Davidson 307-8105).

*- Introduced an ordinance amending Section 2 of the City of Richmond Ordinance No. 25-06 N.S. setting forth City Council compensation so that the Mayor's salary complies with the City Charter and with AB 1234, Local Agencies: Compensation and Ethics.

*- Adopted **Resolution No. 135-06** increasing the City's current Living Wage effective January 1, 2007, from \$11.42 per hour to \$13.47 per hour for employees with medical benefits and from \$12.92 per hour to \$14.97 per hour for employees without medical benefits. (*Vice Mayor Viramontes left the meeting*).

Recommendations for appointments to the following commissions: Recreation and Parks Commission: Pamela Saucer-Bilbo, term expiring October 26, 2009; Arts and Culture Commission: Wende Heath, term expiring January 31, 2008 (completing an unexpired term) were presented. Corky Booze gave comments. A motion was made by Councilmember Griffin, seconded by Councilmember Thurmond to approve the appointments. Councilmember Bates made a substitute motion that failed for lack of a second to hold over the appointment of Wende Heath, Arts and Culture Commissioner until Mayor-elect McLaughlin takes her seat in January 2007. Councilmember Rogers stated that Mayor Anderson has the right and obligation to continue to exercise her duties until the end of her term. The original motion passed by the following vote: **Ayes:** Councilmembers Butt, Griffin, Rogers, Thurmond and Mayor Anderson. **Noes:** None. **Abstentions:** Councilmembers Bates, McLaughlin and Marquez. **Absent:** Vice Mayor Viramontes.

*- Approved the minutes of the meeting held on November 21, 2006.

PUBLIC HEARINGS

City Clerk announced this was the time set, pursuant to a published notice, to hear public comment on the introduction of a proposed ordinance of the City Council to adopt a resolution regarding the proposed issuance of revenue bonds on behalf of the California Autism Foundation (CAF) and approving a tax-exempt financing to be issued by the California Statewide Communities DEVELOPMENT AUTHORITY (CSCDA). Jim Goins, Finance Director, stated that the issuance of these bonds does not involve the City financially. Mayor Anderson declared the public hearing open. Harpreet Sandhu gave comments. On motion of Councilmember Bates, seconded by Councilmember Marquez closed the public hearing by the following vote: **Ayes:** Councilmembers Bates, Butt, Marquez, McLaughlin, Rogers, Thurmond and Mayor Anderson. **Noes:** None. **Abstentions:** None. **Absent:** Councilmember Griffin and Vice Mayor Viramontes. On motion of Councilmember Marquez, seconded by Councilmember Bates, adopted **Resolution No. 136-06** by the following vote: **Ayes:** Councilmembers Bates, Butt, Marquez, McLaughlin, Rogers, Thurmond, and Mayor Anderson. **Noes:** None. **Abstentions:** None. **Absent:** Councilmembers Griffin and Vice Mayor Viramontes.

RESOLUTIONS

None.

ORDINANCES

None.

COUNCIL AS A WHOLE

In the matter to discuss and consider recommending to Mayor-elect Gayle McLaughlin that she merges the Rules and Procedures Committee into one of the other two standing committees. Councilmember Rogers stated that he spoke with Councilmember McLaughlin who wants to have an opportunity to speak with the current Councilmembers as well as the new Councilmembers about this matter prior to making a decision. This item was withdrawn.

In the matter to review the amendments proposed by the Human Relations and Affirmative Action Commission ("HRAAC") to Chapter 3.38 of the Richmond Municipal Code to determine if they comply with the goals and intent of the Council. After review, direct staff as to the preparation of any proposed ordinances. Harpreet Sandhu and Mike Ali gave comments. On motion of Councilmember Marquez, seconded by Councilmember Thurmond removed the title of "Affirmative Action" from the title of the Human Relations Committee by the following vote: **Ayes:** Councilmembers Bates, Butt, Marquez, McLaughlin, Rogers, Thurmond, Viramontes and Mayor Anderson. **Noes:** None. **Abstentions:** None. **Absent:** Councilmember Griffin.

In the matter to adopt City Council Rules of Procedure and Order and direct staff to prepare a resolution for the December 19, 2006, City Council Meeting to adopt said rules. Councilmember McLaughlin gave an overview of the matter. The Rules and Procedures Committee recommends the policy as presented with a few differences on recommendations for the motion to reconsider, which reads: *'A motion can be reconsidered at the original City Council meeting or at a City Council meeting regular or special within two weeks of the original meeting. If there is no meeting of the City Council within two weeks, it can take place at the next meeting of the City Council. During the meeting such motion may be made by one of the prevailing sides and have precedence over all other motions or while a member has the floor. It shall be debatable and can be seconded by any member of the body'*. In conjunction to the motion to reconsider, the committee discussed the possibility of adding to the procedures a motion to rescind, which reads: *'A motion to rescind is a motion that is too late to reconsider can be rescinded if someone moves to rescind the previous action without giving prior notice, it takes a 2/3 vote to rescind the previous action. If previous notice is given, it only takes a majority vote. Motions to rescind have nothing to do with how people voted in the earlier motion. A motion to rescind cannot be applied to actions that cannot be reversed.* John Eastman, City Attorney, stated that under Rosenberg's Rules of Order, there is no motion to rescind because there is a motion to suspend. Both motions require a 2/3 vote. A motion by Vice Mayor Viramontes, seconded by Councilmember Bates to adopt the Council Rules of Procedures and Order without the *motion to*

rescind and with the old rules on *motion to reconsider*.
Councilmember McLaughlin, seconded by Councilmember Marquez a substitute motion to accept *Option B-Motion to Rescind*, which failed by the following vote: **Ayes:** Councilmembers Butt, Marquez, and McLaughlin. **Noes:** Councilmembers Bates, Rogers and Mayor Anderson. **Abstentions:** Councilmembers Thurmond and Vice Mayor Viramontes. **Absent:** Councilmember Griffin.
The original motion passed by the following vote: **Ayes:** Councilmembers Bates, Marquez, McLaughlin, Viramontes, and Mayor Anderson. **Noes:** Councilmembers Butt and Rogers. **Abstentions:** Councilmembers Thurmond. **Absent:** Councilmember Griffin.

COMMUNICATIONS

None.

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

Councilmember Butt

Announced that he attended the National League of Cities Conference in Reno last week and assisted in promoting the partnership between the City of Richmond and the Rosie the Riveter WWII Home Front National Historical Park. Councilmember Butt presented the Council with tee shirts and the Mayor pulled the names of four winners of attendees of the conference who were chosen to receive tee shirts.

Councilmember Bates

Referred the matter of the poor precinct operation during the last election to the Public Safety Standing Committee. Asked that the topic of the city's compliance with GASBE Financial procedures be referred to the Finance Standing Committee. Acknowledged Councilmember Butt's contribution at the National League of Cities regarding Rosie the Riveter.

Councilmember Marquez

Reported that the next Public Safety Committee meeting will be held on Thursday, December 14, 2006, at 9:30 a.m. Attended the National League of Cities Conference in Reno and served as a delegate. Thanked Councilmember Butt for his dedication at the Rosie the Riveter booth at the National League of Cities Conference.

Councilmember Rogers

Announced that the next meeting of the Finance Standing Committee will be on Wednesday, January 17, 2007 at 9:00 a.m. Asked that the meeting be adjourned in memory of Pat Schmidt, wife of George Schmidt.

Councilmember McLaughlin

There will not be a Rules and Procedures Standing Committee meeting in the month of December. Thanked the Richmond Neighborhood Coordinating Council for hosting a holiday dinner.

Councilmember Viramontes

Reported that on Wednesday, December 13th, there will be a leadership institute meeting at Hacienda Grill starting at 5 p.m. sponsored by Urban Habitat and Vision 2000. Asked that an agenda item regarding issues of possible consolidation of the Design Review Board and Planning Commission be placed on the City Council agenda.

Mayor Anderson

Reported that this past Saturday, she attended the birthday celebration of Mrs. Evans, who turned 103 years old.

ADJOURNMENT

There being no further business, the meeting adjourned the meeting at 10:58 p.m., in memory of Rosie Lee Tompkins and Pat Schmidt to meet again on Tuesday, December 19, 2006, at 7:00 p.m.

City Clerk

(SEAL)

Approved:

Mayor