

**RICHMOND, CALIFORNIA, January 16, 2007**

The Regular Meeting of the Richmond City Council was called to order at 7:05 p.m., by Mayor Gayle McLaughlin.

**ROLL CALL**

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

**STATEMENT OF CONFLICT OF INTEREST**

None.

**AGENDA REVIEW**

Item J-1 was moved to be heard before Presentations, Proclamations, and Commendations. Removed Items H-1, H-8, H-9, and H-10 from the Consent Calendar. Mayor McLaughlin requested that an emergency item be placed on the agenda regarding directing the city manager to send a letter to Chevron to appear before the City Council and present their Disaster Mitigation Plan. On motion of Councilmember Marquez, seconded by Councilmember Bates, added an emergency item, as previously stated, to the agenda, by the unanimous vote of the Council.

**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:

**CC A-1. LIABILITY CLAIMS** Claimant: Jerome Cary Agency Claimed Against: City of Richmond. The Council approved the Worker's Compensation claim in the amount of \$50,000 by the following vote: **Ayes:** Councilmembers Bates, Butt, Lopez, Thurmond, Rogers, Vice Mayor Viramontes, and Mayor McLaughlin. **Noes:** None. **Abstentions:** None. **Absent:** Councilmember Marquez.

**CC A-2. CONFERENCE WITH LEGAL COUNSEL ANTICIPATED LITIGATION** Significant exposure to litigation pursuant to Subdivision (b) of Government Code Section 54956.9: One Case. Confidential discussion for one case was held.

**CC A-3. PUBLIC EMPLOYEE PERFORMANCE** (Government Code Section 54957.6) Title: city manager and city attorney. A confidential evaluation of the city manager and city attorney was held.

**EMERGENCY ITEM**

On motion of Councilmember Thurmond, seconded by Councilmember Bates, direction was given, that a letter be executed by the City Manager to Chevron within one week, asking Chevron to appear before the City Council to present their Disaster Mitigation Plan and that a letter also be sent to Contra Costa County asking that they discuss problems with the warning/communication system at a special city council meeting

within 45 days, by the unanimous vote of the Council. Ethel Dotson and Antwone Cloird gave comments.

### **OPEN FORUM FOR PUBLIC COMMENT**

Charlotte McIntire asked that the City's web page have more information on current events and be updated more frequently.

Michael Bradford stated that the community centers are not being used effectively to curtail violence, such as offering programs for the youth.

Earl Palmer spoke in support of Corky Booze to being appointed to the vacant council seat.

Simms Thompson, Jr. stated that Corky Booze, who knows the problems and issues of the Richmond community, should be appointed to fill the council vacancy.

Antwone Cloird spoke in support of Corky Booze filling the vacant council seat.

Juanita Taylor thanked the City Manager for allowing various City employees to retrieve items that would have been thrown away at the old City Hall site.

Corky Booze thanked Ivy Reid Lewis for her mentorship. Mr. Booze thanked all the community members who support him for appointment to the vacant council seat.

Margaret Markowski, Richmond Neighborhood Coordinating Council thanked the City for hiring a Neighborhood Watch Coordinator.

James Jenkins asked that the Council not forget the neighborhoods within the City and keep the special interest groups apart from their decision making. Mr. Jenkins also asked that the City focuses on the North & East Neighborhood this year for street repairs.

Stephan Cowans stated his support for Corky Booze's appointment to the City Council.

Garland Harper spoke in support of Corky Booze for appointment to the City Council.

Chief Mark Ayers gave comments regarding the fire that occurred at Chevron. Chief Ayers thanked the Richmond and El Cerrito Fire Departments, Richmond Police Department for their assistance in the incident and will keep the City informed of Chevron's investigations.

Freddie Jackson asked that Corky Booze be appointed to the City Council.

Rev. Charles Newsom stated that Corky Booze is the best candidate to deal with the issues of homicide and violence and asked that he be appointed to the City Council.

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

## **RESOLUTIONS**

A proposed resolution establishing an annual Martin Luther King, Jr. Richmond Community Leadership and Service Award, to be presented in the month of January, was read by Diane Holmes, City Clerk. Corky Booze thanked Mayor McLaughlin for presenting this award. On motion of Councilmember Marquez, seconded by Vice Mayor Viramontes, adopted **Resolution No. 1-07** by the unanimous vote of the Council.

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

A proclamation for the 2007 Martin Luther King Jr., Richmond Community Leadership and Service Award to the organizers and members of the Richmond "Tent Cities" initiative for their fearless contributions to the health, safety, and peace of Richmond residents was read by Mayor McLaughlin. Mayor McLaughlin presented certificates to the following individuals received awards: Freddie Jackson, Rev. Andre Shumake, Rev. Charles Newsome, Albert Lee, Corky Booze, Wilma Miller, Jackie Thompson, Garland Harper, Stephan Cowans, John Wayne, Artesia Johnson, Robert O. Brown, James Cash, Donald Seals, Felicia Haywood, Norman Walker, and Patrice Boykin. Freddie Jackson announced that tent cities will be erected around Richmond each year on the 25<sup>th</sup> of September. Rev. Charles Newsom and Rev. Andre Shumake also gave comments.

## **NOMINATIONS AND APPOINTMENT TO FILL COUNCIL VACANCY**

Mayor McLaughlin stated the following: *Public speakers will address the Council first, and then Councilmembers can motion to appoint a candidate. If seconded, the Council will vote on the motion. The first candidate to receive five votes becomes the new City Councilmember. If no candidate receives five votes, as per the Charter, two options remain. The first option is that a motion may be made to call for a special election, which can be coordinated with the next election within 365 days, or the issue may remain unresolved and if the vacancy is not filled by March 9, 2007, which is 60 days after the seat was vacated, then the Council is required by Charter to call immediately for a special election, which can be coordinated with the next election, within 365 days.* The following individuals gave comments on nominating and appointing one of the following person: **Corky Booze, Harpreet Sandhu, and Whitney Dotson:** Novelene Harris, Pastor Dana Mitchell, Jaideep Singh, Leroy Moore, Michael Bradford, Earl Palmer, Simms Thompson, Jr., Antwon Cloird, Corky Booze, Juanita Taylor, Garland Harper, Renee Parker, Stephan Cowans, Ethel Dotson, Sukman Dotson, Fred Davis Jackson, Freddie Jackson, Rev. Andre Shumake, Garland Harper, Lisa Wolf, Marilyn Langlois, Jackie Thompson, Rev. Charles Newsome, Richard Stollings, Otheree Christian, Wilma Miller, Patsy Green, Andres Soto, James Cash, Torm Nompraseurt, Tarnel Abbot, Richard Lompa, Rev. Otis Glourd, Rev. James Harris, JoAnn Tillman, Rev. George Brown, Jeet Bajwa, Darnell Turner, and Pastor Don Jones. A motion was made by Councilmember Rogers, seconded by Vice Mayor Viramontes, to appoint Harpreet Sandhu to the City Council. Discussion ensued, during which a substitute motion was made by Councilmember Bates, seconded by Councilmember Butt, to

appoint Corky Booze to the City Council. The substitute motion to appoint Corky Booze failed by the following vote: **Ayes:** Councilmembers Bates, Butt, and Mayor McLaughlin. **Noes:** None. **Abstentions:** Councilmembers Lopez, Marquez, Rogers, Thurmond and Viramontes. **Absent:** None. The original motion to appoint Harpreet Sandhu passed by the following vote: **Ayes:** Councilmembers Lopez, Marquez, Rogers, Thurmond and Viramontes. **Noes:** None. **Abstentions:** Councilmembers Butt, Bates, and Mayor McLaughlin. **Absent:** None.

*(At 9:25 p.m., Mayor McLaughlin called for a recess. The Council reconvened at 9:43 p.m.)*

### **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 resolution establishing new City Council Rules of Procedure and Order were presented. Councilmember Bates requested that the following changes be made: On page 5, number 3 should be amended to read: *evening sessions of the Council meeting shall begin at 7:00 p.m. or as otherwise posted or designated; also that the regular meeting of the Council shall adjourn at 12 a.m. or may be extended by a majority of the Council in attendance; Page 13 opponents rebuttal no. 8.* On motion of Vice Mayor Viramontes, seconded by Councilmember Marquez, adopted **Resolution No. 2-07**, inclusive of the requested changes, that during public hearings, technical questions to staff can be made after the public hearing has closed, however the public may not provide comments after the hearing is closed and that evening sessions of the Council shall begin at 7:00 p.m. or as otherwise posted or designated, by the unanimous vote of the Council.

\* - Rejected all bids received on December 14, 2006, for the renovation of the Richmond Natatorium Phase I and authorized the project to be rebid in the Spring/Summer of 2007 as part of a larger project encompassing the first two planned phases.

\* - Adopted **Resolution No. 3-07** to accept a 10' wide easement for sanitary sewer purposes within the property owned by Marina Bay Crossing, LLC, located at the southwest corner of Marina Bay Parkway and Meeker Avenue.

\* - Adopted **Resolution No. 4-07** to abandon the City of Richmond's 10' wide sanitary sewer easement within the property owned by Marina Bay Crossing, LLC, located at the southwest corner of Marina Bay Parkway and Meeker Avenue.

\* - Approved the State of California Standard Agreement between the City of Richmond and the San Francisco Bay Conservation and Development Commission (BCDC) related to Mitigation Grant funding in the amount of \$608,300 for the removal of dilapidated pile-supported structures at Terminal 4.

\* - Adopted **Resolution No. 5-07** amending the City of Richmond classification plan to add the classification of Head of Reference (Librarian).

\* - Introduced an ordinance establishing wages, salary, and compensation for the new classification of Head of Reference (Librarian) (salary range: \$5,275 - \$6,412/month).

A proposed contract with the Contra Costa County Building Inspection Department to provide a variety of building and permitting management services during the absence of the Building Official was presented. The proposed contract is on a time and materials basis for a total amount not to exceed \$99,000. Richard Mitchell, Director of Planning and Building, stated that the cost of this proposed contract will be recovered through the on-going collection of building and planning fees. The contract will also allow the Planning and Building Department to secure additional services from the County Building Department, as needed, to respond to unanticipated surges in demand for building inspections, plan review, and other administrative support. The proposed hourly rate for this service is \$75.00 and would provide up to 35 weeks of coverage. Councilmember Bates asked that in the future, if items cannot come before the Finance Committee, that staff at least communicate the matter with the Finance Committee chairperson. On motion of Councilmember Bates, seconded by Vice Mayor Viramontes, approved the contract by the unanimous vote of the Council.

The proposed ordinance rezoning to Planned Area (PA) Development the Site Known As "Terminal One" for the Point Richmond Shores Residential Condominium Development Project was continued to the City Council meeting of January 23, 2007. A motion was made by Councilmember Marquez, seconded by Vice Mayor Viramontes to allow Ben Helber, Toll Brothers, to make comments passed, by the unanimous vote of the Council. Mr. Helber indicated that the action tonight is the second reading of the rezoning ordinance and the Council should take action on it tonight. He further stated that the lawsuit filed is related to the certification of the EIR.

A proposed Memorandum of Understanding between the City of Richmond and the Richmond Community Redevelopment Agency for the purpose of having the Employment and Training Department monitor Agency projects for compliance with Local Employment, Living Wage, and Business Opportunity Ordinances was presented. No discussion. On motion of Councilmember Marquez, seconded by Vice Mayor Viramontes approved the Memorandum of Understanding, by the unanimous vote of the Council.

\* - Adopted **Resolution No. 6-07** amending Resolution No. 52-06 and adjust appropriations of the 2006-2007 Workforce Investment Act and grant programs in the amount of \$651,405.

\* - Approved an emergency purchase from L.N. Curtis & Sons, of 12 sets of turnout gear in the amount of \$22,641.75.

\* - Adopted **Ordinance No. 1-07 N.S.** 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.

\* - Approved the minutes of the Morning Open Session and the Evening Open Session held on December 19, 2006.

## PUBLIC HEARINGS

City Clerk announced this was the time set, pursuant to published notice, to consider an appeal by Mike Stanley from the Planning Commission's denial of variances for side yard and front yard setbacks at 759 Wilson Avenue and direct staff to return with a resolution setting forth the City Council's findings and decision. *(Councilmember Lopez stated that she would recuse herself because of her participation on this item as a Planning Commissioner and left the meeting).* Richard Mitchell, Director of Planning and Building, gave an overview of the matter. The applicant appealed the Planning Commission's decision to deny a variance for front and side yard setbacks at 759 Wilson Avenue. In his appeal letter, Mr. Stanley argues that the Planning Commission wrongly denied him the opportunity to improve the energy efficiency of his home and that the proposed remodel is consistent with the character of the neighborhood. The subject parcel is an irregularly shaped, substandard 3,010 square foot lot located on Wilson Avenue between Garvin and Solano Avenues. The existing one-story residence has two bedrooms, one full bathroom, a kitchen, living room and dining room. The Planning Commission concluded that an addition could be constructed on site in a manner that would not require variances. The commission also found that the addition would overwhelm the site, would not comply with the minimum required interior yard space requirement, and would not relate properly to the subject site or the surrounding neighborhood. Mayor McLaughlin declared the public hearing open. Mike Stanley, appellant, stated that the partial remodel to his home would raise the house and upgrade the plumbing, heating, and electrical. The home would be made energy efficient and the plan is in line with other houses on the 700 block of Wilson. All of the neighbors approved and signed a consent form after reviewing the plans. The Design Review Board recommended eliminating the rear exit stairs and the design was reconfigured per the building code. Roger Fox and Sandi Genser-Maack spoke in support of Mr. Stanley's proposed project. Ms. Genser-Maack stated that the North and East Neighborhood Council reviewed and approved Mr. Stanley's project. Mr. Mitchell suggested that the matter be referred back to the Design Review Board to review the design to see if it could be of a lesser impact to the surrounding neighborhood. Discussion ensued. On motion of Councilmember Bates, seconded by Councilmember Marquez, closed the public hearing by the following vote: **Ayes:** Councilmembers Bates, Butt, Marquez, Rogers, Thurmond, Vice Mayor Viramontes, and Mayor McLaughlin. **Noes:** None. **Abstentions:** None. **Absent:** Councilmember Lopez. On motion of Vice Mayor Viramontes, seconded by Councilmember Thurmond, denied the appeal without prejudice by the following vote: **Ayes:** Councilmembers Bates, Butt, Marquez, Thurmond, Vice Mayor Viramontes, and Mayor McLaughlin. **Noes:** Councilmember Rogers. **Abstentions:** None. **Absent:** Councilmember Lopez.

City Clerk announced this was the time set, pursuant to published notice, to (1) Adopt a resolution declaring the City's intent to undertake the financing of a multifamily housing project, (2) hold a public hearing to consider a resolution authorizing the issuance of not to exceed \$55,000,000 in multifamily housing mortgage revenue bonds for the Crescent Park Apartments, and (3) after the public hearing, adopt a resolution authorizing the issuance of not to exceed \$55,000,000

in multifamily housing mortgage revenue bonds for the Crescent Park Apartments. Mayor McLaughlin declared the public hearing open. Steve Duran, Community & Economic Development Director, stated that this action has no impact on the approved City budget for FY 06/07. If the bonds are issued, all costs and fees associated with the issuance are to be paid by the borrower. The borrower's financing plan for the project envisions that the City would act as the conduit bond issuer for the proposed state bond allocation. As conduit issuer, the City would issue tax-exempt bonds to fund construction and permanent loans for the project. The Richmond Community Redevelopment Agency would monitor the project on the City's behalf for compliance with the regulatory agreement over the life of the agreement. Staff estimated the issuance will generate approximately \$125,000 of upfront issuance fees and approximately \$35,000 per year in compliance monitoring fees to the Agency for the life of the bonds. Lynn Berard, EAH Project Manager, stated that they will put approximately \$30 million hard construction costs into renovating the property. The expected start time for the project will be between June and September 2007 and will be a 25-month project. On motion of Vice Mayor Viramontes, seconded by Councilmember Thurmond closed the public hearing by the unanimous vote of the Council. On motion of Vice Mayor Viramontes, seconded by Councilmember Thurmond, adopted **Resolution No. 7-07** declaring the City's intent to undertake the financing of a multifamily housing project and **Resolution No. 8-07** authorizing the issuance of not to exceed \$55,000 in multifamily housing mortgage revenue bonds for the Crescent Park Apartments by the unanimous vote of the Council.

### **ORDINANCES**

A proposed ordinance adding a Comprehensive Planning Fee (CPF) to the Master Fee Schedule to recover the costs of comprehensive planning activities, including maintenance of the General Plan, Specific Plans, and the Zoning Ordinance was presented. Richard Mitchell, Director of Planning and Building, stated that the proposed CPF will generate revenue for the Planning and Building Services Department to recover costs associated with preparing and revising the General Plan and other planning documents, and to minimize use of General Fund resources for such purposes. The revenue generated by the proposed fee is estimated to be \$500,000 during the remainder of the 2006-07 fiscal year. Assuming that construction activity remains constant or increases over the next few years, the fee would generate \$1.1 million per year. The Planning and Building Services Department may conduct further cost analyses to determine whether the revenue generated by the CPF covers the full costs of preparing and revising all planning documents for which costs may be recovered through a CPF. On motion of Councilmember Butt, seconded by Councilmember Butt, said ordinance received first reading and was laid over one week for second reading, by the unanimous vote of the Council.

### **COUNCIL AS A WHOLE**

In the matter regarding approval of a contract with the National Research Center (NRC) in partnership with the International City/County Managers Association (ICMA) to conduct a survey of the City of Richmond residents to help the City Council set spending priorities for the 2007/08 fiscal year

budget and for the improvement of city service delivery. Janet Schneider, Administrative Chief, stated that the NRC is a public research firm focusing on the information needs of the public sector. The National Citizen Survey (NCS) contains core questions as well as questions customized to the City of Richmond. The City of Richmond would use the National Citizen Survey to monitor trends in resident opinion, measure government performance, assess support for local policies, inform budget, land use, and strategic planning decisions, benchmark service ratings and gather information on residents' use of services. The NRC will mail out surveys to 3,000 Richmond households who are randomly selected and geographically dispersed. The survey will be available in Spanish and other languages. Mayor McLaughlin stated she is not in favor of raising taxes and asked that one of the questions on the survey be rephrased to ask what community member's budgetary priorities are in order to utilize the resources already available and to have more community enhancement and social service programs in place of some of the projects listed on the survey. Councilmember Lopez suggested that some of the neighborhoods be divided, not by police beats, but by the location and uniqueness of each neighborhood. On motion of Councilmember Bates, seconded by Councilmember Marquez, approved the contract directed staff to submit another draft with Council's suggestions and comments at the January 23<sup>rd</sup> Council meeting by the unanimous vote of the Council.

In the matter to consider directing the City Attorney to research and prepare an ordinance to provide the City with greater local enforcement authority to penalize violations of Quiet Zone regulations in addition to those remedies available under federal law. Councilmember Butt gave an overview of the matter. The railroad companies have not been compliant with the established quiet zones, particularly in the Parchester Village area. Dr. Larry Hagler gave comments regarding the negative impacts of noise on a person's well-being. Local enforcement measures may be a possibility. On motion of Councilmember Butt, seconded by Councilmember Bates, approved preparation of an ordinance by the unanimous vote of the Council.

### **COMMUNICATIONS**

None.

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

Councilmember Butt reported that he attended the Environmental Policy Committee meeting of the League of California Cities last Friday.

Councilmember Bates asked that the meeting be closed in memory of Rev. Orenzia Bernstein. Funeral services will be held on January 17<sup>th</sup> at 11:00 a.m. at Bethlehem Missionary Baptist Church on Erlandson/Juliga Woods Drive.

Councilmember Marquez announced that he attend the Public Safety Committee meeting in Sacramento last week. Announced that the next Public Safety/Public Services Standing Committee will be on Thursday, January 18, 2007, at 9:30 a.m.

Commended Mayor McLaughlin for chairing her first meeting so smoothly.

Vice Mayor Viramontes made a report on transportation funding from the Contra Costa Transportation Authority. The City of Richmond has three competing projects in West County. They are the \$4 million shortfall in the Richmond Parkway Transit Center, \$5 million shortfall with BART to complete the parking structure at the BART station, and the \$4.8 million completion of the Hercules Corridor Rail Station.

Councilmember Lopez announced that she attended the League of California Cities Revenue and Taxation Policy Committee last week.

Councilmember Rogers reported that the Ad Hoc Committee regarding the Marina Bay grade separation issue met a few weeks ago and the Marina Bay Neighborhood Council will come back to the City Council with their recommendations.

Mayor McLaughlin thanked all of the participants of the Martin Luther King, Jr. march held yesterday, January 15, 2007.

**ADJOURNMENT**

There being no further business, the meeting adjourned at 11:43 a.m., in memory of Rev. Orenzia Bernstein, pastor and community leader, to meet again on Tuesday, January 23, 2007, at 7:00 p.m.

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City Clerk

(SEAL)

Approved:

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Mayor