

RICHMOND, CALIFORNIA, January 23, 2007

SWEARING-IN CEREMONY

The Swearing-in Ceremony was called to order by Mayor Gayle McLaughlin at 6:34 p.m.

ADMINISTER THE OATH OF OFFICE TO COUNCILMEMBER APPOINTEE

In the matter to administer the Oath of Office of Councilmember to Harpreet S. Sandhu. On January 16, 2007, the Council appointed Mr. Sandhu to fill the vacancy on the City Council. The following persons spoke in opposition of the process used in selecting Mr. Sandhu, not in opposition of Mr. Sandhu personally: Freddie Jackson and Jackie Thompson. The following persons spoke in support of Mr. Sandhu's appointment: Bob Campbell and Genoveva Calloway. The City Clerk, Diane Holmes, administered the Oath of Office to Mr. Sandhu and presented him with a certificate of appointment. Councilmember Sandhu read the following: *"Good Evening Madam Mayor, my fellow Councilmembers, Mr. City Manager and Staff; It's a great honor to address you tonight. It is a truly humbling moment for me as I take on this position as Councilmember for the City of Richmond. I feel a great sense of responsibility today. Not just to you all for the great trust that you have shown in appointing me, but to the residents of the City of Richmond who I will endeavor to fight for everyday. I hope to be able to bring together all the interests and parties of the community, be they labor unions, business, public sector, activists, law enforcement and our educators, to make sure all their voices are heard and that we build through consensus to do what's right for the City of Richmond. Additionally, I would like to take a moment to also recognize my religious and cultural heritage. It is such a great honor to be not only the first Sikh American, but the first Asian American to serve on this distinguished council. Just 8 days ago we celebrated the birth and life contributions of the Reverend Dr. Martin Luther King Jr., and I think my appointment to this Council further elucidates his message of involvement of all communities and the need for people to become active participants in their communities. As a Sikh American, we have a long and proud history of service and advocacy in this Country. Over 100 years ago, the first Sikhs landed on the shores of California and have now permeated into all facets of American life. There are over 500,000 living here in the United States, and an increasingly large population in the East Bay and specifically the City of Richmond. While there may be some preconceived ideas on the minds of my fellow citizens, I want you all to know that I'm here to be an advocate for the city and its residents. I promise to reward the trust that has been placed upon me in being a tireless champion for the residents of our town. I would be remiss if I didn't take the time to acknowledge those individuals without whose guidance, support and never ending patience, I would not be here today. I would like to recognize Bob Campbell, Ms. Johnson, from Congressman George Miller's Office, Ravi Khalon, former hon. speaker pro-tem Sally Leibe, Hon. Genoveva Calloway, City of San Pablo, Hon. Maria Alegria, City of Pinole, who is the president of the League of Mayors for the State of California, Mary Jew, NABE board member, Jaswant S. Hothi, Dr. JP Singe and finally, I would like to thank my family for their understanding and love. My wife Inderpreet, daughters Tanisha and Hoorin and my son*

Bharjoban, who have been a constant source of inspiration and their patience for the time that I spend away from them. And also, to my extended family who is here tonight to support me. In conclusion, I would like to quote from the Sikh scripture the Guru Granth Sahib: Nanak Naam Chardhi-Kalaa, Teray Bhanay Sarbat Da Bhalaa, which translates loosely to: In the name of Nanak, (the first Sikh Guru/Prophet) we pray for the well-being of all people.

The swearing-in ceremony adjourned to a brief recess at 6:49 p.m.

RICHMOND, CALIFORNIA, January 23, 2007

The Regular Meeting of the Richmond City Council was called to order at 7:13 p.m., by Mayor Gayle McLaughlin.

ROLL CALL

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

STATEMENT OF CONFLICT OF INTEREST

None.

AGENDA REVIEW

Items H-1 and H-5 were removed from the Consent Calendar. Item H-7 was continued to the February 6, 2007, City Council meeting.

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:

(Councilmembers Lopez and Marquez were not present during the closed session).

CC A-1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Subdivision [a] of Government Code Section 54956.9) Three Cases: **Coalition of Concerned Citizens of Pt. Richmond vs. City of Richmond:** Confidential briefing was held. **Martin vs. City of Richmond:** Confidential briefing was held; **Techno Coatings, Inc. vs. City of Richmond:** Confidential briefing was held.

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 briefing for one case was held.

CC A-3. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code Section 54956.8)

Property: Westridge at Hilltop Apartments, 2490 Lancaster Drive, Negotiating Parties: Tim Jones, Richmond Housing Authority, and Sarah Metherell, Steadfast Residential Properties. Under Negotiation: Price and Terms: Confidential briefing was held.

Mayor McLaughlin introduced her staff persons, Dave Grenell and Parin Shah. Mr. Grenell and Mr. Shah gave comments.

OPEN FORUM FOR PUBLIC COMMENT

Margaret Judkins gave comments regarding the placement of a swimming pool at De Anza High School that has an annual maintenance cost of \$250,000. Ms. Judkins stated that the cost of

the pool and the maintenance will eliminate funding for repairs at many other schools in the district.

Jackie Thompson stated that along Cutting Boulevard and 23rd Street, it is very difficult to see what lane you should be in due to the poor condition of the streets.

Antwone Cloird expressed his disappointment that the Council did not listen to the community and appoint Corky Booze to the vacant Council seat.

Reverend Andre Shumake stated that he reviewed the City of Richmond's Charter and it does not state that the Council was mandated to the process used to determine who would be selected to fill the vacant Council seat.

Donald Seals expressed his disagreement regarding the process used for the selection of the vacant Council seat.

James Cash gave comments regarding his disagreement with the process used in the selection of the member for the vacant Council seat.

Charles Evans gave comments regarding the tragic events surrounding Raijon Daniels' death.

Jeff Ritterman suggested that Measure T be reintroduced to the voters.

Kathy Robinson expressed her disappointment in the manner the Council selected the person to fill the vacant Council seat. Ms. Robinson also stated that the tent placed outside the Council Chamber the evening of the mayor and councilmembers swearing-in ceremony was costly and unnecessary.

Lynn Berard, EAH Housing gave comments regarding the use of their funds regarding the rehabilitation of Crescent Park. EAH has established relationships with businesses in Richmond and 80% of the employees at Crescent Park are Richmond residents. Ms. Berard also stated that EAH will work with the general contractor and subcontractor to require that they have provisions in their contracts to ensure employment of Richmond residents.

Beverly Galloway, Point Richmond, stated that they filed a legal action pertaining to the Point Richmond Shores project.

ELECTION OF VICE MAYOR

Mayor McLaughlin thanked Vice Mayor Viramontes for her last year of service and will present Vice Mayor Viramontes with a plaque during the first City Council meeting in February. Vice Mayor Viramontes thanked the Council and former Mayor Anderson for their support during the last year. Councilmember Butt stated that, generally, it has been the Council's tradition to rotate the vice mayor position to the senior person who has never served in the position before. A motion was made by Councilmember Butt, seconded by Councilmember Lopez, to nominate Councilmember Thurmond as Vice Mayor. Councilmember Marquez stated that Councilmember Bates would bring the necessary knowledge and experience to the position of vice mayor in order to better assist Mayor

McLaughlin. A substitute motion was made by Councilmember Marquez, seconded by Vice Mayor Viramontes, to nominate Councilmember Bates to the position of vice mayor. Discussion ensued. Councilmember Rogers asked that the process by which the vice mayor is selected be discussed on a future agenda. The substitute motion passed and Councilmember Bates was elected as Vice Mayor by the following vote: **Ayes:** Councilmembers Bates, Marquez, Sandhu, Rogers, and Viramontes. **Noes:** None. **Abstentions:** Councilmembers Butt, Lopez, Thurmond and Mayor McLaughlin. **Absent:** None. Councilmember Bates thanked those who supported him as candidate for Vice Mayor and acknowledged the presence of his family members.

CONSENT CALENDAR

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

A proposed resolution (1) accepting funds from the 2006-07 North Richmond Waste and Recovery Mitigation Fee Fund currently being held by Contra Costa County to be used to finance certain strategies as identified in the Interagency Agreement for an amount not to exceed \$461,677, and (2) authorize the City Manager or his designee to administer those funds in a manner consistent with the terms of the attached agreement was presented. Vice Mayor Bates withdrew his request for this item to be removed. On motion of Vice Mayor Bates, seconded by Councilmember Marquez, adopted **Resolution No. 9-07** by the unanimous vote of the Council.

* - Adopted **Ordinance No. 2-07 N.S.** establishing wages, salary, and compensation for the new classification of Head of Reference (Librarian) (salary range: \$5,275 - \$6,412/month).

* - Approved a promissory note secured by a Deed of Trust to facilitate a \$300,000 interest bearing loan from the City of Richmond to the Richmond Police Activities League (PAL) to provide temporary financial support for the PAL Youth Center expansion project to allow PAL to complete construction of the project.

A proposed ordinance adding a Comprehensive Planning Fee to the Master Fee Schedule to recover the cost of comprehensive planning activities, including maintenance of the General Plan, Specific Plans, and the Zoning Ordinance was presented. Councilmember Lopez stated that this item should be referred to the Finance Committee for further analysis to discuss what the impact would be on those who would have to pay the fees. Richard Mitchell, Director of Planning and Building, replied that the fees were based on analysis and studies performed by Muni Financial with fee comparisons to other cities. A motion was made by Councilmember Lopez, seconded by Councilmember Marquez to forward this matter to the next Finance Standing Committee. Councilmember Butt stated that this idea is consistent with the direction the Council gave staff in order to increase revenue to the City and should not be delayed any further. A substitute motion was made by Vice Mayor Bates, seconded by Councilmember Butt to adopt the ordinance and with the recommendation that the Finance Committee may review the fees and recommend adjustments to the City Council,

if necessary. Councilmember Marquez withdrew his second to the original motion. The substitute motion passed and **Ordinance No. 3-07 N.S.** was adopted by the unanimous vote of the Council.

* - Adopted **Resolution No. 10-07** of Support, Acceptance, and Appropriation stating the City's willingness to accept the Preserve America funding if awarded, and demonstrating the City's commitment to carrying out an expanded historical resources reconnaissance survey project

A 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 February 6, 2007.

* - Approved the minutes of the Morning and Evening Open Sessions held on January 16, 2007.

PUBLIC HEARINGS

(Councilmember Rogers left the meeting at 9:05 p.m., returned at 9:15 p.m.; Councilmember Bates left the meeting at 9:25 p.m., returned at 9:31 p.m.; Councilmember Butt left the meeting at 9:30 p.m., returned at 9:33 p.m.)

City Clerk announced this was the time set, pursuant to published notice, to consider an appeal of a Planning Commission denial of variances from minimum lot width and size for four undeveloped lots located on York Street, Cherry Street, and Duboce Avenue and direct staff to return with a resolution setting forth the City Council's finding and decision. Richard Mitchell, Director of Planning & Building, stated that the lots have very similar site characteristics. The appellant requested variances to the standards of the Single-family Low Density (SFR-3) Residential Zoning District's minimum lot width and size development standards. If approved, the variances would allow the appellant to process a design review application for a new two-story single family home to be built on each of the subject lots. The variances are necessary as the subject lots do not meet the required minimum 50-foot lot width and 5,000 SF lot size. Each subject lot has a width of 25 feet and a size of 2,500 SF. The Planning Commission denied each of the requested variances and further stated that the intent of the City's infill housing initiative was not to create new substandard lots, but to develop remnant substandard lots and if granted, may encourage subsequent property owners to also divide their conforming lots into substandard lots, which would eventually lead to densities inconsistent with the General Plan and have negative effects on existing neighborhood development patterns in the overall area. Mayor McLaughlin declared the public hearing open. Eric Leinseider, NR Land Development Contract Administrator, stated that North Richmond Development proposes to build single-family houses on four 25' lots. Mr. Leinseider named various homes in the area that have been approved under the same circumstances. Kevin Hampton stated that he proposes to make available a wide range of housing types and residential densities to meet the needs of all age groups and income levels and increase the City's ability to provide needed services and facilities. Furthermore, the appeal should be upheld because similar variances have been approved under similar

circumstances. The North Richmond area is in need of development, investment, and increased homeownership and these projects provide not only housing, but construction trade training and viable employment opportunities to Richmond residents. The following individuals spoke in support of granting the variances: Cheryl Maier, Curtis Isaac, Jonathan Farley, Francisco Antoine, Ronald Coleman, Darryl Washington, Kathleen Sullivan, and Eddie Addison. On motion of Vice Mayor Bates, seconded by Councilmember Viramontes, closed the public hearing by the unanimous vote of the Council. Councilmember Bates asked that the City communicate with Contra Costa County to instruct County staff that they are not to allow persons to divide their lots and receive a parcel number without first coming to the City. Richard Mitchell replied that the City has sent a letter to the County and the County agreed to hold off on issuing additional parcel numbers without a legal description, a survey, and a Planning Commission action. On motion of Councilmember Rogers, seconded by Councilmember Thurmond, granting the appeal and approving the variances, overruling the Planning Commission's decision, and directed staff to prepare findings and statements for approving of the variances. Councilmember Lopez made a friendly amendment that stated: *"That special circumstances or conditions exist on the subject property, including size, shape, topography, or location, that will deprive such property of privileges enjoyed by owners of other properties in the vicinity and zone in which the property is situated. Criterion is satisfied because of the special neighborhood hardships and uniqueness of this neighborhood that would benefit by this project; and the variance is consistent with the purposes of Chapter 15.04 and will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and same zoning district. The proposed variance is consistent with the neighborhood pattern, i.e. the County development located directly across the street."* Councilmember Rogers accepted the amendment. The motion passed by the unanimous vote of the Council. Vice Mayor Bates asked the city manager to work with the planning director regarding the procedure by which appeals are handled when the Planning Commission makes a decision in opposition to recommendations by the Planning Department.

RESOLUTIONS

None.

ORDINANCES

A proposed ordinance amending section Chapter 9.22 of the Richmond Municipal Code specifying an additional public nuisance and providing penalties, relating to discharges that result in the activation of sirens associated with the Community Warning System was presented. Councilmember Butt gave an overview of the matter. He stated that his agenda item is simply to get approval to set a public hearing date for the future. Councilmember Butt stated that an activity causing a shelter in place order should constitute a public nuisance and that the City should have the power to take any reasonable action to abate a public nuisance, including imposing penalties intended to deter nuisance-causing behavior, or even shutting down the facility that causes the nuisance. The proposed action is to propose a declaration that the January 15, 2007, fire at the Chevron Refinery was a public nuisance; activity that leads to shelter in

place warnings in the future is a public nuisance; and the nuisance should be abated by adopting an ordinance requiring a penalty of \$6,000 per minute against any company that causes a shelter in place order, measured from the time of commencement of the condition to the time of termination of the shelter in place order. The following individuals gave comments on the matter: Jim Bates, Judy Morgan, Jeff Ritterman, Owen Martin, Rob Ham, Juan Reardon, Cheryl Maier, Marilyn Langlois, Tarnel Abbot, Ken Nelson, and Corky Booze. Chief Mark Ayers, Chevron, stated that the Chevron Refinery opposes levying such fines and feels that this proposed ordinance may deter some companies from signaling the alarm when an emergency occurs for fear of fines being imposed on them. Tony Semenza, Executive Director of Contra Costa CAER, stated that CAER built the community warning system along with a team of members and that the proposed ordinance, as written, will not encourage companies to use the community warning system in time due to the penalties that would be imposed. Councilmember Butt asked why Richmond was not a member of CAER. Mr. Semenza replied that the City of Richmond has not paid its \$100 membership fee for the past two years. A motion was made by Councilmember Butt, seconded by Councilmember Thurmond, for the City Council to schedule a public hearing to consider declaring the Chevron Richmond Refinery a public nuisance and consider potential abatement actions or penalties. Discussion ensued. Vice Mayor Bates stated that scheduling a public hearing at this time was premature due the fact that the report that Mayor McLaughlin requested from Chevron has not been received yet. Councilmember Butt suggested that the public hearing could be scheduled for the first meeting in March to allow the report to be submitted. Vice Mayor Bates made a substitute motion for the City Attorney to study the legality of possibly declaring the Chevron Refinery a “public nuisance.” The motion died for lack of a second. The original motion by Councilmember Butt, seconded by Councilmember Thurmond was amended to state that a public hearing be held during the first council meeting in March to discuss the option of considering Chevron a public nuisance and taking appropriate action. Councilmember Rogers, seconded by Councilmember Marguez, made a substitute motion that staff talk to Chevron, schedule the public hearing, and if Chevron agrees, there would be an independent person who would audit all of Chevron’s safety practices and make a public report to the City Council. If this occurs the public hearing would not be necessary. The substitute motion failed by the following vote: **Ayes:** Councilmembers Marquez and Rogers. **Noes:** Councilmember Thurmond and Mayor McLaughlin. **Abstentions:** Councilmembers Butt, Lopez, Sandhu, Viramontes and Vice Mayor Bates. **Absent:** None. Vice Mayor Bates, seconded by Councilmember Viramontes, made a second substitute motion that the public hearing not be scheduled until after the full report from Chevron is received by the City Council and that Contra Costa County also present their report. The substitute motion passed by the following vote: **Ayes:** Councilmembers Lopez, Marquez, Sandhu, Viramontes and Vice Mayor Bates. **Noes:** Councilmembers Rogers, Thurmond and Mayor McLaughlin. **Abstentions:** Councilmember Butt. **Absent:** None.

COUNCIL AS WHOLE

The review and approve submittal of the final draft of the City of Richmond’s Community Survey to the National Research

Center for final approval and distribution was presented. On motion of Vice Mayor Bates, seconded by Councilmember Marquez, approved the final draft by the unanimous vote of the Council.

In the matter to consider staff recommendations and next steps to resolve the issues regarding West County Wastewater District's request for the City of Richmond to vacate the biosolids drying lagoons on its property. The matter was deferred to a special meeting, study session, on January 30, 2007.

COMMUNICATIONS

None.

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

Councilmember Marquez reported that last Thursday the Public Safety Committee referred the matter of public restrooms in City parks to the full City Council. There will also be a special Public Safety Committee on Thursday, January 25, 2007, at 2:00 p.m., to discuss issues from the November 2006 Election. Steve Weir, County Clerk, will give a report.

Councilmember Butt announced that \$100 has been collected from Councilmembers to pay for the City's membership fee in the CAER.

Councilmember Thurmond announced that the Regional Violence Reduction Strategic Meeting will be held on Friday, February 2, 2007, at 9:00 a.m. in the Council Chamber.

Councilmember Lopez asked that the meeting be closed in memory of Raijon Daniels.

Councilmember Rogers reported that members of the Marina Bay community will be meeting on Wednesday, January 24, 2007, at 7:00 p.m., to discuss the issue of an underpass at Marina Bay Parkway.

ADJOURNMENT

There being no further business, the meeting adjourned at 11:59 p.m., in memory of Hank Henry Clark and Raijon Daniels, to meet again on Tuesday, January 30, 2007, at 6:30 p.m.

City Clerk

(SEAL)

Approved:

Mayor