

RICHMOND, CALIFORNIA, March 20, 2007

The Regular Meeting of the Richmond City Council was called to order at 9:00 p.m., by Mayor Gayle McLaughlin.

ROLL CALL

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

STATEMENT OF CONFLICT OF INTEREST

None.

AGENDA REVIEW

Items G-1, G-3, and G-10, G-24, G-26 were removed from the Consent Calendar. Item K-2 and Item F-1 were moved after the Report from the City Attorney.

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, Marquez, and Viramontes were not present during the closed session).

A-1. LIABILITY CLAIMS:

Alma Candelario vs. City of Richmond: Not discussed.

Sylvia Britt vs. City of Richmond: Worker's compensation claim was approved for \$50,000 with Councilmember Butt voting "no".

Dwight Haire vs. City of Richmond: Worker's compensation claim was approved for \$21,101.50

A-2. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION Significant exposure to litigation pursuant to Subdivision (b) of Government Code Section 54956.9: **One Case:** Direction to institute litigation has been initiated. The action, the defendants, and other particulars will be disclosed upon inquiry after commencement of the action.

A-3. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code Section 54957.6)

Title: City Attorney: A confidential evaluation was conducted.

COUNCIL AS WHOLE (Partial)

In the matter to approve the City of Richmond's co-sponsorship of the Richmond N.A.A.C.P. Youth Council Teen Summit to be held on March 31, 2007 at LaVonya De Jean Middle School from 9 a.m. to 5:00 p.m. Councilmember Thurmond stated that the purpose of the summit is to empower youth to identify and lead efforts to reduce social problems affecting youth. Youth will participate in workshops structured to lead to community action and will also participate in a career fair. The City of Richmond has an opportunity to support this event as a co-sponsor and to provide in-kind support that helps

the N.A.A.C.P. Youth Council in meeting its Teen Summit objectives. The provision of this in-kind support would be achieved by leveraging existing approved city allocations across departments. The following individuals spoke in support of the sponsorship: Otheree Christian, Josephine Iancoya, and Corky Booze. A motion was made by Councilmember Thurmond, seconded by Councilmember Bates, approved the co-sponsorship by the unanimous vote of the Council.

PRESENTATIONS, PROCLAMATIONS, AND COMMENDATIONS

Welcome and introduction of Fire Chief Gabriel Angel Pimentel Velasquez from Huatulco, Oaxaca, Mexico was presented. Chief Michael Banks introduced Chief Velasquez. The City of Richmond Fire Department will donate equipment to Huatulco's Fire Department. Chief Velasquez thanked the City of Richmond for their generosity. Richmond resident Chris Hammond met Chief Velasquez while on vacation in Huatulco and purchased a fire truck and donated it to the Huatulco Fire Department.

A proclamation in recognition of "Women's History Month" was presented by Mayor McLaughlin to Mary Peace Head, Marion Suzay, and Marion Wynn. Mayor McLaughlin read the proclamation.

OPEN FORUM FOR PUBLIC COMMENT

Mike Ali gave comments regarding the collapse of sewers in the area of 32nd Street and McBryde down to Roosevelt due to tree root damage. Mr. Ali thanked Willie Haywood and Rich Davidson for their attention to this problem.

Corky Booze stated that Council meetings often do not begin on time and cause persons in attendance to have to wait long periods of time for agenda items to be discussed. Mr. Booze asked why the vehicle checkpoints have been cancelled. He asked Councilmember Thurmond to call Mr. Brown in Parchester Village. He also stated that the Office of Violence Prevention has not performed to its expectations thus far.

John Anderson, President of the Bay Area Rescue Mission, stated that the Richmond Rescue Mission has been in existence since 1965 and last year provided 78,480 nights of shelter, 215 homeless people each night, provided an average of 2,759 meals per day. During 2006, the Rescue Mission assisted 6,688 of Richmond's at-risk inner-city children in the "Rescue the Children Program".

Sims Thompson stated that there are many street lights out throughout the City and at pedestrian underpasses. Mr. Sims also commented that there is an abandoned building on 4th Street and Macdonald Avenue that continuously has garbage dumped on it.

Kathy Robinson stated that the lights change too quickly when crossing City streets.

Ethel Dotson stated that there are too many liquor stores in the high crime areas in the City.

Robert Brown encouraged persons from the Park Plaza neighborhood to become president of the Park Plaza Neighborhood Council.

CONSENT CALENDAR

On motion of Councilmember Viramontes, seconded by Councilmember Marquez, all items marked with an asterisk (*-) were approved by the following vote: **Ayes:** Councilmembers, Bates, Lopez, Marquez, Rogers, Sandhu, Viramontes and Mayor McLaughlin. **Noes:** None. **Abstentions:** None. **Absent:** Councilmembers Butt and Thurmond.

In the matter to approve an amendment to an agreement with Ms. Shannon Layer to provide polygraph examination services increasing the payment limit from \$8,750 to \$18,925. There was no discussion. A motion was made by Councilmember Marquez, seconded by Councilmember Viramontes, approved the amendment, by the following vote: **Ayes:** Councilmembers, Bates, Butt, Lopez, Marquez, Rogers, Sandhu, and Viramontes. **Noes:** None. **Abstentions:** None. **Absent:** Councilmember Thurmond and Mayor McLaughlin.

In the matter to authorize a sole source contract with Overaa Construction to provide specified general contract services for the rehabilitation of five community centers and two branch libraries, all work to be completed on or before June 15, 2007, for an amount not to exceed \$750,000. Finance Director, Jim Goins, stated that the repairs are planned to be completed by June 15, 2007. A report was presented to the Finance Committee on March 8, 2007 regarding the budget and timelines to rehabilitate the West Side and Bayview Branch libraries, the Nevin Community Center, the Booker T. Anderson Community Center, the Shields-Reid Community Center, the Parchester Village Community Center and Nicholl Park & Memorial Youth Center. The funding for the rehabilitation was adopted 2006-2011 Capital Improvement Plan (CIP). This included \$800,000 appropriated in fiscal year 2006-2007. Current year appropriation included West Side Branch Roof - \$100,000, refresh branch libraries - \$100,000, Nevin Center roof - \$100,000 and community centers - \$500,000. A swap of up to \$750,000 is proposed between current year CIP appropriation for the Fire Training Center relocation and the proposed fiscal year 2007-2008 funding for the community centers. Councilmember Viramontes asked for clarification on how the contract was bid. Mr. Goins stated that both the Public Works Department and the Finance Department were involved and Overaa indicated that they could do the work in the timeframe required and they were the only responsive bidder out of all the general contractors contacted. The following individuals spoke on the matter: Dorothy Fox, Robert Brown, Mike Ali, and Juanita Taylor. City Manager, Bill Lindsay stated that the City's procurement ordinance says that a sole source contract can be let after a good faith review of available resources is conducted. Furthermore, hiring City personnel to perform this work would not be effective because there would need to be a fair amount of continuous maintenance work needed to necessitate the hiring of the workers, which this particular project does not do. The Local 1021 contract asks for a 30-day notice when contracting work out. There was a letter sent to the union in February 2007 stating that the rehabilitation work was planned. Councilmember Butt expressed concern over the limited time given to contractors to

submit their bids for the project. Also, the contract has two different dollar amounts for the total cost of the scope of work. Councilmember Viramontes stated that this contract was not properly presented to the Finance Standing Committee for thorough discussion, but will support the approval of the contract because ultimately the children are what matters. A motion was made by Councilmember Viramontes, seconded by Councilmember Marquez to approve the contract and requested that the revised scope of work be brought back to the Council as soon as possible. Councilmember Thurmond made a substitute motion that this be held over to the first meeting in April to clarify what the contract amount is and what the contractor has proposed and how Richmond contractors will be allowed to work on this project. The motion died for lack of a second. The original motion passed by the following vote: Ayes: Councilmembers, Bates, Lopez, Marquez, Rogers, Sandhu, Viramontes and Mayor McLaughlin. Noes: Councilmember Butt. Abstentions: Councilmember Thurmond. Absent: None.

* - Acknowledged receipt of the City of Richmond's comprehensive Annual Financial Report for the year ended June 30, 2006 (Recommended by the Finance Committee).

* - Adopted **Resolution No. 24-07** approving a budget adjustment for the Library Literacy for Every Adult Program (LEAP), accepting the allocation of California Library Literacy Services (CLLS) funds from the California State Library in the amount of \$93,248 for Fiscal Year 2006-2007.

* - Adopted **Resolution No. 25-07** approving a budget adjustment for the Library, accepting the allocation from the California Public Library Funds (PLF) in the amount of \$59,732 from the California State Library, for Fiscal Year 2006-2007

* - Awarded a contract for architectural design services for the Bayview and West Side branch libraries of the Richmond Public Library to Anderson Brule Architects for a price not to exceed \$30,000.

* - Adopted **Resolution No. 26-07** to amend the Port of Richmond Tariff FMC No. 3 reflecting a 10% increase in tariff rates as approved by the Executive Committee of the California Association of Port Authorities (CAPA).

* - Approved a Purchase of Services contract with Remediation Risk Management, Inc. (RRM) for the development of an investigative work plan for removed underground storage tank sites located at 1301 Canal Boulevard and 1411 Harbour Way South, in an amount not to exceed \$18,000.

A proposed contract with Todd Jersey Architecture of Berkeley to provide the necessary services to rebid the renovation of the Richmond Natatorium to include Phase I and Phase II at a total cost not to exceed \$55,000.

* - Approved an agreement between the City of Richmond and Chevron USA to exchange an easement for street vacation associated with construction of the Richmond Parkway.

* - Adopted **Resolution No. 27-07** amending the City of Richmond classification plan to add the classification of **Employee Benefits Analyst**.

* - Introduced an ordinance establishing wages, salary, and compensation for the new classification of **Employee Benefits Analyst (salary range: \$5,328 - \$6,438/month)**.

*- Adopted **Resolution No. 28-07** amending the City of Richmond classification plan to add the classification of **Community Services Technician**.

*- Introduced an ordinance establishing wages, salary, and compensation for the new classification of **Community Services Technician (salary range: \$3,323 - \$4,039/month)**.

* - Adopted **Resolution No. 29-07** amending the City of Richmond classification plan to add the classification of **Port Administrator**.

* - Introduced an ordinance establishing wages, salary, and compensation for the new classification of **Port Administrator (salary range: \$7,645- \$8,828/month)**.

* - Adopted **Resolution No. 30-07** amending the City of Richmond classification plan to add the classification of **Senior Employee Benefits Analyst - Human Resources (Leslie Knight 620-6600)**.

* - Introduced an Ordinance establishing wages, salary, and compensation for the new classification of **Senior Employee Benefits Analyst (salary range: \$5,998 - \$7,254/month)**.

* - Adopted **Resolution No. 31-07** amending the City of Richmond classification plan to add the classification of **Workforce Program Coordinator**.

* - Introduced an ordinance establishing wages, salary and compensation for the new classification of **Workforce Program Coordinator (salary range: \$4,471 - \$5,433/month)**.

* - Approved a contract amendment between Meyers Nave Riback Silver & Wilson and the City in the amount of \$15,000 to pay for legal work regarding the use of City Funds to pay for memberships in organizations which engage in lobbying activities and for legal services rendered on local campaign finance ordinances.

A proposed contract with the law firm of Barg Coffin Lewis & Trapp for the provision of legal services in defense of the CEQA lawsuit entitled James Scott Littlehale vs. City of Richmond was presented. The contract amount is \$25,000 and will run through the disposition of the lawsuit. Councilmember Rogers stated he does not support the contract and believes the matter should be settled. A motion was made by Vice Mayor Bates, seconded by Councilmember Marquez to approve the contract. A substitute motion was made by Councilmember Butt, seconded by Councilmember Rogers to not approve the contract. The substitute motion failed by the following vote: Ayes: Councilmembers, Butt and Rogers. Noes: Councilmembers Bates, Lopez, Sandhu, and Thurmond. Abstentions: Councilmembers Marquez, Viramontes and Mayor McLaughlin. Absent: None. The original motion passed, by the following vote: Ayes: Councilmembers Bates, Lopez, Marquez, Sandhu,

Thurmond, and Viramontes. Noes: Councilmembers Butt and Rogers. Abstentions: Mayor McLaughlin. Absent: None.

* - Declared that the Richmond City Charter as submitted represents the correct current version of the Charter as adopted and subsequently amended by the voters.

* - Adopted **Ordinance No. 8-07** amending Chapter 2.16 of the Municipal Code of the City of Richmond to establish a procedure for filling vacancies on the City Council.

* - Approved recommendation to the appointment of Nemy Bautista to the **Police Commission**. Term expiring November 1, 2010.

* - Approved the minutes of the Morning Open Sessions held on February 20, 2007, and the Evening Open Sessions held on March 6, 2007.

(A motion was made by Councilmember Bates, seconded by Councilmember Marquez added an emergency item to the agenda regarding the use of the Richmond Auditorium for funeral services for Coach Fred Harris, by the unanimous vote of the Council). Vice Mayor Bates stated that Coach Harris's family requested the use of the Richmond Auditorium main floor, Bermuda Room, and a police escort. Bill Lindsay, City Manager, stated that the estimated cost for use of the auditorium is \$1,293 and includes set-up and take down. There currently is no estimate for the cost of the police escort, but most of it would be on an overtime basis. A motion was made by Vice Mayor Bates, seconded by Councilmember Viramontes approved the expenses for Coach Harris's funeral by the unanimous vote of the Council. The funeral services will be on Tuesday, March 27th at 11 a.m.

PUBLIC HEARINGS

The City Clerk announced that this was the time set pursuant to published notice to conduct a public hearing to adopt a resolution approving the levy of special assessments for unpaid accounts relating to lot clean-ups, inspection, and building board-ups in the amount of \$39,132. Sgt. Darren Monahan stated that this action would enable the City to collect outstanding receivables against properties totaling \$39,132 from January 2006 to June 2006. Each property owner was notified via a warning letter identifying the problem. Then a follow-up letter was sent giving the owners an opportunity to appeal the fines or fees. Councilmember Viramontes stated that her cousin was on the list and would abstain from voting. Mayor McLaughlin declared the public hearing open. The following individuals spoke against levying of their properties: Rev. Aaron Ward, Ben Parsons, and Brenda Haines. Councilmember Butt suggested that the persons who spoke should be allowed to go through the appeals process and present their case to the appeals board. A motion was made by Councilmember Butt, seconded by Councilmember Bates, closed the public hearing by the unanimous vote of the Council. A motion was made by Councilmember Butt, seconded by Councilmember Viramontes, gave the persons who appeared to speak an opportunity to present their case to the appeals board and have their names removed from the list and proceed with the assessments for the people remaining on the list, and adopted **Resolution No. 32-07**, by the unanimous vote of the Council.

The City Clerk announced that this was the time set pursuant to published notice to conduct a public hearing to adopt a resolution approving the levy of special assessments for unpaid accounts relating to the administrative citations in the amount of \$43,927. Mayor McLaughlin declared the public hearing open. A motion was made by Vice Mayor Bates, seconded by Councilmember Marquez, closed the public hearing by the unanimous vote of the Council. A motion was made by Councilmember Marquez, seconded by Mayor McLaughlin, adopted **Resolution No. 33-07**, by the unanimous vote of the Council.

The City Clerk announced that this was the time set pursuant to published notice to conduct a public hearing to consider an appeal of the Planning Commission's decision to limit the operator of Wingstop Restaurant to serve alcohol between the hours of 10:00 a.m. to 10:00 p.m. and direct staff to return with a resolution setting forth the City Council's findings and decision. Richard Mitchell, Planning Director, stated that on October 13th, 2006, the appellant applied for a Conditional Use Permit to authorize a Type-41 On-Premise Beer and Wine ABC License for use at a new Wingstop chain restaurant that will be opening soon on 2171 Meeker Ave. The appellant proposed to sell beer and wine for on-premise consumption only, during the restaurants typical business hours of 10:00 AM to midnight daily. Staff recommends that the application be conditionally approved with the proposed hours of alcohol sales of 10:00 a.m. to midnight daily. Mayor McLaughlin declared the public hearing open. Ladonna Toliver, appellant requested that the hours for the sale of alcohol be consistent with the closing hour of midnight. The Wingstop franchise agreement requires that restaurants remain open until midnight, with alcohol being sold until that time. A motion was made by Vice Mayor Bates, seconded by Mayor McLaughlin, closed the public hearing by the unanimous vote of the Council. A motion was made by Vice Mayor Bates, seconded by Mayor McLaughlin, closed the public hearing. Councilmember Lopez and Mayor McLaughlin stated they would abstain because allowing Wingstop to operate until midnight gives an unfair advantage over other businesses in the center that only operate until 10 p.m. A motion was made by Vice Mayor Bates, seconded by Councilmember Marquez, upheld the appeal by modifying the Planning Commission's approved hours of alcoholic beverage service from 10:00 a.m. to midnight daily, by the following vote: Ayes: Councilmembers Bates, Butt, Marquez, Rogers, Sandhu, Thurmond, and Viramontes. Noes: None. Abstentions: Councilmember Lopez and Mayor McLaughlin. Absent: None.

RESOLUTIONS

In the matter to adopt a resolution in support of the Bay Trail as mitigation for the Long Wharf lease renewal and direct staff as appropriate. Councilmember Butt stated that the California State Lands Commission (CSLC) is considering granting a new 30-year lease of California sovereign land to Chevron for continued operation of the Long Wharf, which offers the opportunity to examine the potential for any adverse impacts to public access opportunities along this section of the Bay Trail segment linking Point Richmond with Point Molate. Councilmember Marquez asked whether the CSLC has the authority to force a landowner to allow Bay Trail access on their land. Councilmember Butt replied that the EIR concluded that

the CSLC did not have the authority to deal with the trail issue as part of the long wharf lease because it is not connected to the long wharf, however people in the City are prepared to present a legal rebuttal to this conclusion, but would like the City to support this proposed resolution before doing so. The following individuals spoke on the matter: Bill Penkham, Zelda Holland, Corky Booze, James Jenkins, Laura Thompson, Rosemary Corbin, Nancy Strauss, Bruce Beyaert, David Dohlberg, and Mike Ali. Discussion ensued. A motion was made by Vice Mayor Bates, seconded by Councilmember Viramontes to approve the resolution. Councilmember Marquez made a substitute motion to hold this matter over until April 17, 2007, in order to determine whether the CSLC has the authority to force Chevron to make this land accessible for the Bay Trail. The substitute motion died for lack of a second. The original motion passed by the following vote: **Ayes:** Councilmembers Bates, Butt, Lopez, Marquez, Rogers, Sandhu, Thurmond, Viramontes, and Mayor McLaughlin. **Noes:** None. **Abstentions:** Councilmember Marquez. **Absent:** None.

ORDINANCES

An ordinance to amend Section 7.40 of the Municipal Code of the City of Richmond by adding Section 7.40.500 pertaining to prohibiting entities performing curb painting services without first obtaining permission from the property owner was introduced for first reading. Councilmember Marquez stated this matter was discussed at the Public Safety/Public Services Standing Committee and was recommended to come before the full City Council with recommended changes made to the draft ordinance. The following individuals gave comments: Mike Ali, Corky Booze, and Naomi Williams. A motion was made by Councilmember Marquez, seconded by Councilmember Rogers, said ordinance received first reading and was laid over two weeks for second reading, by the unanimous vote of the Council.

COUNCIL AS WHOLE

In the matter to consider directing staff to draft an ordinance that provides the City the maximum legal authority to regulate the transportation and storage of hazardous substances in railcars in and through the City of Richmond. (*A motion was made by Vice Mayor Bates, seconded by Councilmember Thurmond, extended the meeting 30 minutes, until 1:00 a.m., by the unanimous vote of the Council*). Councilmember Butt stated that he was contacted by Steve Malar from Washington, D.C., who asked if Richmond would be interested in joining other cities in implementing some kind of regulation about hazardous materials on railcars crossing and parking throughout cities. The following individuals spoke on the matter: Ernie Vonitch and John Cockyle. Discussion ensued. Mayor McLaughlin referred this matter to the Public Safety/Public Services Standing Committee.

In the matter to discuss the March 9, 2007, Permitting Process Community Forum and provide direction to staff. Vice Mayor Bates stated that he, in cooperation with Mayor Gayle McLaughlin, Councilmembers Maria Viramontes and John Marquez invited stakeholders from the community to the forum to identify areas of concern and possible solutions relative to the permitting process in the Planning Department. Vice Mayor

Bates thanked Mayor McLaughlin, Councilmembers Marquez and Viramontes, staff, and Trina Jackson for putting this forum together. A motion was made by Vice Mayor Bates to accept the report and appoint Councilmember Viramontes, Councilmember Lopez, and Vice Mayor Bates to work with staff and return to the full City Council with implementation recommendations. Mayor McLaughlin stated that the Charter does not allow for a councilmember to make recommendations of specific councilmembers to form a committee and that up to four councilmembers can meet with staff at one time without forming a committee. Vice Mayor Bates withdrew his motion and stated that the council members he stated work with staff, without forming a committee or ad hoc committee. The following individuals gave comments: Sandi Genser-Maack and Corky Booze.

In the matter regarding a status report and direction to staff relative to negotiating an agreement with the railroad property owner regarding abatement of blighted areas east of I-580. Councilmember Rogers stated that staff was directed at a previous meeting to begin citing persons for not cleaning the graffiti along the railroad and it has not been done yet. A motion was made by Vice Mayor Bates, seconded by Councilmember Marquez, approved the matter, by the unanimous vote of the Council.

(A motion was made by Vice Mayor Bates, seconded by Councilmember Marquez, extended the meeting, by the unanimous vote of the Council).

In the matter to hear a progress report from the project Sponsor (Toll Brothers) and provide direction to staff to work with Project Sponsor to revise the proposed Vesting Tentative Subdivision Map and Design Review Permit to reflect the conceptual suggestions that emerged from the design charrette and return to the City Council for action on April 17, 2007. Richard Mitchell, Director of Planning and Building, stated that following a public hearing on December 12, 2006 regarding the point Richmond Shores Project, the City Council directed City staff to facilitate a series of design charrettes involving City staff, Toll Brothers, and members of the public. Ben Helber, Toll Brothers, gave an overview of the proposed design changes and stated that there have been three charrette workshops and most participants have agreed upon a conceptual design. The original design included 324 units and the revised design would be a 20% reduction and only include 258 units. There would be 170 podium units and 88 villa units. The following individuals gave comments: Bruce Bayeart and Beverly Galloway. Council is requested to determine whether or not the revisions that were made during the charrette process are acceptable and decide whether they would support the revised map and design review permit and that Council direct staff to work with the project sponsors to design the map and design review permit, to incorporate the charrette meeting suggestions and revisions at a meeting scheduled for late April for ultimate approval of the project. The following individuals gave comments on the matter Corky Booze, Nancy Strauss, Bruce Bayeart, and Beverly Galloway. Discussion ensued. A motion was made by Councilmember Viramontes, seconded by Councilmember Marquez, that this matter should return to the City Council on April 24, 2007, in order to allow more time for staff and Toll brothers to work out final details regarding the design issues. *(A motion was made by Vice Mayor Bates, seconded by*

Councilmember Viramontes, extended the meeting an additional 15 minutes. Councilmember Lopez agrees with the proposed April 24th date to come to a conclusion for this project. Mr. Helber stated that Toll Brothers would be agreeable to schedule the next meeting in early May. A substitute motion was made by Councilmember Rogers, seconded by Vice Mayor Bates that this matter return to the May 1, 2007, Council meeting with the incorporated conceptual redesigns and directed staff and Toll Brothers to prepare a final design package that reflects the changes derived from the charrette process, passed by the unanimous vote of the Council.

COMMUNICATIONS

None.

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

None.

ADJOURNMENT

There being no further business, the meeting adjourned at 1:48 a.m., in memory of Lovie McIntosh, mother of former Councilmember Lesa McIntosh and Coach Fred Harris, to meet again on Tuesday, March 27, 2007, at 7:00 p.m.

City Clerk

(SEAL)
Approved:

Mayor