CITY OF RIVERBANK
CITY COUNCIL
MINUTES
MONDAY, MARCH 12, 2012

CALL TO ORDER:

The City Council of the City of Riverbank met this date in a regular session at 6:00 p.m. at the Riverbank City Council Chamber, 6707 Third Street, Riverbank, California with Mayor Madueño presiding.

FLAG SALUTE: ***Mayor Virginia Madueño***

INVOCATION: ***None***

ROLL CALL:

Present: ***Mayor Virginia Madueño***
Vice Mayor Dotty Nygard
Councilmember Richard O'Brien
Councilmember Jeanine Tucker

Absent: ***Councilmember Jesse James White***

CONFLICT OF INTEREST
Declaration by Council Members and Staff who would have a direct Conflict of Interest on any scheduled agenda item to be considered.

No one spoke.

1. PRESENTATIONS

Item 1.1: Proclaiming the Month of April as DMV/Donate Life Month.

Mayor Madueño read the proclamation; staff would mail to the organization.

Item 1.2: Proclaiming March 2012 American Red Cross Month.

Mayor Madueño presented a proclamation proclaiming March 2012 American Red Cross Month to Ms. Debbie Calcote, representative of the American Red Cross.

Vice Mayor Nygard spoke in regard to the importance of learning CPR, stating the CASA [Del Rio Family Resource Center] was currently providing classes.

Councilmember Tucker informed everyone that in response to home fires, the Red Cross would appreciate donations of new blankets and sweat suit clothing.

2. PUBLIC BUSINESS FROM THE FLOOR (No Action Can Be Taken)

At this time, members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the City Council. Individual comments will be limited to a **maximum of 5 minutes** per person and each person may speak once during this time. Time cannot be yielded to another person. Under State Law, matters presented under this item cannot be discussed or acted upon at this time by the City Council. The public will be invited to make comments on agenda items when the item comes up for Council consideration. For Closed Session items, the public will be invited to make comments before the meeting is recessed to Closed Session. For record purposes, you must step up to the podium, state your name, and speak into the microphone when addressing the City Council.

A group of fourth grade Mesa Verde Elementary School children were present to announce March as the Month of Reading and stated a reading competition was implemented which encouraged reading and resulted in the ability to win school supplies. The winners will be announced on March 30 during the Read Across Riverbank event at the Teen Center and the Community Center at 6:00 p.m.; Council thanked them for their participation and Mayor Madueño challenged the Council Members to participate in the project.

Donna Bridges, ROTA Transit Coordinator, provided an update on ROTA operations.

Vicky Holt Angelo, Riverbank Library Branch Manager, provided an update on the local library activities.

Mark Couples, Riverbank, inquired about the status of the retro fit of the sewer lines. J.D. Hightower, Development Services Director, provided an update on the seismic study recently conducted and various public work projects/tasks completed or in the process of completion.

3. CONSENT CALENDAR

All items listed on the Consent Calendar are to be acted upon by a single action of the City Council unless otherwise requested by an individual Councilmember for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

Item 3.A: Clerk's Report of Posting. The agenda for the regular March 12, 2012, City Council meeting was posted on the City Chamber bulletin board on March 7, 2012.

Item 3.B: Waive Readings. All Readings of ordinances and resolutions, except by title, are waived.

Item 3.C: Approval of the February 27, 2012, regular City Council Minutes.

Item 3.D: ***Resolution NO. 2012-17*** Approving the Warrant Registers for 02/16/2012, 02/23/2012, and 03/01/2012 for the City of Riverbank.

Item 3.E: ***Resolution No. 2012-018*** to Assign and Authorize Representation on Community Development Block Grant Signature Card.

Item 3.F: Acceptance of the CNG Maintenance Facility and File Notice of Completion.

Item 3.G: ***Resolution No. 2012-19*** Affirming the Appointment of Planning Commissioners Joan Stewart and Clint Bray.

Recommendation: Approval by roll call vote of Consent Calendar.

Vice Mayor Nygard requested to pull Item 3.F to receive an overview of the construction project's successes/problems. J.D. Hightower, Development Services Director responded the project went well, lessons were learned to improve, and a tour was scheduled for Wednesday morning.

Councilmember O'Brien requested to pull Item 3.G for clarification on whether the paperwork was on file. Jill Anderson, City Manager, explained that records were found that verified their appointments, the possibility of failing to transition the hardcopy records to the electronic Laserfiche system caused the incomplete files, and that the item before Council was to affirm their appointments.

ACTION: *By motion (Tucker / Nygard / passed 4-0) to approve/adopt Consent Calendar Items 3.A through 3.G as presented; motion carried by unanimous roll call vote.*
ABSENT: Councilmember White

4. UNFINISHED BUSINESS: None.

5. PUBLIC HEARINGS

Item 5.1: **Resolution No. 2012-20** Authorizing the Approval of an Application for Funding from the 2012 Super NOFA Allocation of the State CDBG Program.

Recommendation: 1) Open public hearing, presentation, public comment, and close public hearing. 2) Authorize the approval of an application for funding and execution of a grant agreement from the 2012 Super NOFA Allocation of the State CDBG fund.

Marisela Hernandez, Finance Director, presented the staff report explaining the changes requested.

Mayor Madueño opened the Public Hearing at 6:36:22 p.m.

- ***No one spoke for or against the item.***

Mayor Madueño closed the Public Hearing at 6:36:28 p.m.

Council and Staff discussed the item.

ACTION: ***By motion (Nygard / Tucker / passed 4-0) to adopt Resolution No. 2012-020 Authorizing the Approval of an Application for Funding from the 2012 Super NOFA (Notice of Funding Available) Allocation of the State CDBG Program as presented; motion carried by unanimous roll call vote.***
ABSENT: Councilmember White

Item 5.2 **Resolution No. 2012-21** Approving Amendments to the Housing Rehabilitation Program Participation Guidelines.

Recommendation: 1) Open public hearing, receive public input, and close public hearing. 2) Adopt Resolution approving amendment of Housing Rehabilitation Program Participation Guidelines by roll call vote.

Marisela Hernandez, Finance Director, presented the staff report.

Mayor Madueño opened the Public Hearing at 6:42:15 p.m.

- ***No one spoke for or against the item.***

Mayor Madueño closed the Public Hearing at 6:42:20 p.m.

Council and Staff discussed the item.

Councilmember O'Brien inquired about the 5% below market interest rate not reflecting current interest rates on page 5. Ms. Hernandez explained it was an oversight which should be changed to 3% as reflected on page 3 of 11.

ACTION: ***By motion (Tucker / Nygard / passed 4-0) to adopt Resolution No. 2012-021 Approving Amendments to the Housing Rehabilitation Program Participation Guidelines as presented, with the 3% below market interest rate correction to page 5 of 11; motion carried by unanimous roll call vote.***
ABSENT: Councilmember White

6. NEW BUSINESS

Item 6.1: Request to Conduct a Farmer's Market on Saturdays from June through September, 2012.

Recommendation: Review and approve the event, including conditions for limited sponsorship and fee waivers.

Vice Mayor Nygard, who serves as Chair of the Community Gardens Committee, recused herself from the Item and departed from the room at 6:52 p.m.

Sue Fitzpatrick, Director of Parks and Recreation, presented the staff report; Council and Staff discussed the item.

Dr. Dennis Zinner, Chamber Board of Directors and Farmer's Market partner, responded to Councilmember Tucker's inquiry of whether the vendors' request for more advertising was addressed stating that funding for advertisement was an issue and they hoped to raise funds to accomplish that.

ACTION: ***By motion (O'Brien / Tucker / passed 3-0) to approve Item 6.1 as presented; motion carried by unanimous roll call vote.***
ABSENT: Councilmember White

Vice Mayor Nygard returned to the dais at 7:01 p.m.

7. COMMENTS

Item 7.1: Staff Comments: (Information Only – No Action)

Jill Anderson, City Manager, announced: 1) that Congressman Jeff Denham was scheduled to take a tour of the LRA site on Wednesday at 12:30 p.m.; 2) that the exterior of the Community Center was scheduled to be painted; 3) that Council will be contacted to schedule meetings for budget review, the review of LRA progress, and the Sheriffs' contract; 4) that a proclamation has been scheduled on the March 26 agenda to promote the Reading event on March 30th; and 4) that staff and Mayor Madueño met to collaborate on assisting the organization that is offering "Lemonade Day" an educational event for young people to lean about starting a business and the free enterprise system.

Debbie Olson, LRA Executive Director, announced that the LRA is pursuing the opportunity to formalize their incubator to assist small businesses and advertise what LRA has to offer.

Marisela Hernandez, Finance Director, announced that the Budget Advisory Committee meeting was scheduled on March 19th at 6:00 p.m., in the Council Chambers; a review of the budget for next fiscal year will begin with reviewing Police Services and Recreation.

J.D. Hightower, Development Services Director, announced the successful reuse of the former MCI building by Econtech Live and that a Planning Commission meeting was scheduled on March 20th to make a recommendation on the Downtown Specific Plan.

Item 7.2: Council Comments: (Information Only – No Action)

Vice Mayor Nygard announced that this year's Earth Day event has been expanded and is scheduled for April 28th at Jacob Myers Park from 10:00 a.m. to 4:00 p.m.

Item 7.3: Mayor's Comments: (Information Only – No Action)

Mayor Madueño asked for a moment of silence for former Mayor Ms. Madeline Davidson in honor of her life and legacy to the community; condolences to her family.

Mayor Madueño spoke in regards to: 1) the complaints of the unpleasant smell she received stating that it was not the City's Waste Water Treatment Plant, it was actually due to local Farmer's fertilizing; 2) thanking all staff for all their work, the assistance they provide at a moments notice, their enthusiasm when making positive announcements on the City's progress, and the City moving forward leaving the past behind; 3) how the City can best review the Police Services contract with the Sheriffs Department requesting to schedule a study session to consider areas of negotiation to retain or increase the police force for the City and exploration of how to conquer the tagging issues; 4) whether the City

had a medical excuse on record for Councilmember White's absence, whether his absences were considered unexcused, and when the 60 day period to count absences began; Tom Hallinan, City Attorney, stated none was on record, according to Councilmember White's attorney he has been accepted into a program however a vacancy is not available and therefore is currently not in a [treatment] program, in his opinion, as it stood [this evening], he affirmed Mayor Madueño's question that his absences were therefore unexcused, and the 60 day period started at the beginning of the consistent number of absences; 5) reviewing and modifying the City's ordinance on mobile food vendors to consider allowing them to operate and better serve the community; Councilmember O'Brien requested that other ordinances be reviewed such as not allowing residents to raise chickens; Mayor Madueño agreed and to also include the no dancing ordinance, Council agreed; and 6) "Lemonade Day" and its benefits to the entire community.

MAYOR MADUEÑO ANNOUNCED THE CLOSED SESSION ITEMS AND RECESSED TO CLOSED SESSION 7:16 P.M.

8. CLOSED SESSION

Item 8.1: **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
Pursuant to Government Code § 54956.9(a)
Name of Case: City of Riverbank v. County of Tuolumne, Jack and Tricia Gardella, and Resources Exploration and Drilling, LLC, *Real Parties in Interest.*
Sacramento County Superior Court No. 34-2011-80000950

Item 8.2: **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
Pursuant to Government Code § 54956.9(a)
Name of Case: Danise Huey v. City of Riverbank
Stanislaus Court Case No. 664604

Item 8.3: **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
Pursuant to Government Code § 54956.9(a)
Name of Case: Andria Allen and Frances Allen v. City of Riverbank
Stanislaus Court Case No. 670739

Item 8.4: **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
Pursuant to Government Code § 54956.9(a)
Name of Case: Barham Construction, Inc. v. City of Riverbank
Court of Appeals of California, Fifth District
Case No. F058692 and Case No. F059499

Recommendation: Council to give direction to Staff.

MAYOR MADUEÑO RECONVENED FROM CLOSED SESSION AND REPORTED OUT AT 9:38 P.M.

9. REPORT FROM CLOSED SESSION

Item 9.1: Report from Closed Session on Item 8.1 - **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION:** City of Riverbank v. County of Tuolumne, Jack and Tricia Gardella, and Resources Exploration and Drilling, LLC, *Real Parties in Interest.*

ACTION: ***Direction was given as it relates to litigation, significant strides have been made, however, a few obstacles remain to overcome, and the City is close to an agreement with Tuolumne County, which may be announced in a few weeks.***

Item 9.2: Report from Closed Session Item 8.2 - **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION:** Danise Huey v. City of Riverbank.

ACTION: ***Council pulled the item from the agenda.***

Item 9.3: Report from Closed Session Item 8.3 - **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION:** Andrea Allen and Frances Allen v. City of Riverbank.

ACTION: ***Direction was given to Legal Counsel.***

Item 9.4: Report from Closed Session Item 8.4 - **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION:** Name of Case: Barham Construction, Inc. v. City of Riverbank.

ACTION: ***Direction was given to Legal Counsel.***

ADJOURNMENT

There being no further business, Mayor Madueño adjourned the meeting at 9:45 p.m.

ATTEST: **APPROVED:**

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Annabelle Aguilar, CMC **Virginia Madueño**
Deputy City Clerk **Mayor**