CITY OF RIVERBANK
CITY COUNCIL
MINUTES
MONDAY, FEBRUARY 27, 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 : **None.**

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.

Ross Hoesman spoke in regards to his personal experience with a drunk driver, his concern with Councilmember White's behavior in reference to the recent drunk driving charge, and the inability to remove him from office.

Ramon Bermudez, read an article published in the Modesto Bee referring to Councilmember White's behavior and the drunk driving charge, and expressed his concerns with the Councilmember holding office; requesting that he resign and seek treatment.

City Attorney, Tom Hallinan, stated Councilmember White's legal counsel informed him that Councilmember White has entered an inpatient treatment program for alcoholism, that he would not be resigning from his Council seat, and that he had no statement as to the status as a Councilmember in the future. Also unless Councilmember White is convicted or pleads guilty to a felony or commits any offense relating to misconduct in office, he cannot be removed from office.

Councilmember Nygard spoke in regards to her personal experience with a drunk driver incident, recognizing that alcoholism is a disease and its rampant existence in the community; she hoped Councilmember White would listen to his constituents and take care of himself and his family.

Daryl Daniel referred to Councilmember White's medical absence as a positive impact and hoped he would continue to seek help and provide his letter of resignation to concentrate on his recovery.

Councilmember O'Brien echoed Councilmember Nygard's comments and hoped that Councilmember White succeeded with his treatment. He called for Councilmember White's resignation, stating that the remaining Council members worked very well together.

Mayor Madueño spoke in regards to the difficulty of responding to the public's concerns and inquiries in reference to Councilmember White's drunk driving accident, the inability of Riverbank as a General Law city to remove Councilmember White from office, how the majority of the City Council had asked that he step down as this incident was his third offense, reminding everyone of the two previous attempts to recall Councilmember White, and that the removal from office through a recall was up to the people of Riverbank as the June Election was approaching.

City Attorney, Tom Hallinan confirmed that due to being absent for medical reasons, his absences would be considered excused and the city's practice was to continue to compensate a Council Member during an excused absence.

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 February 27, 2012, City Council meeting was posted on the City Chamber bulletin board on February 23, 2012.

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

Item 3.C: Approval of the February 13, 2012, regular City Council Minutes.

Item 3.D: ***Resolution No. 2012-012*** Approving the Warrant Registers for 01/26/2012, 02/04/2012, and 02/09/2012 for the City of Riverbank.

Item 3.E: ***Resolution No. 2012-013*** Authorizing the Director of Finance to Execute New Signature Cards & Facsimile Signatures with WestAmerica Bank, Wells Fargo Bank, and Bank of America.

Item 3.F ***Resolution No. 2012-014*** Authorizing the Designation of the Signatories for the City of Riverbank Local Agency Investment Fund (LAIF) Account.

Item 3.G: Investment & Cash Report.

Recommendation: Approval by roll call vote of Consent Calendar.

ACTION: ***By motion (White / Nygard / passed 4-0) to approve 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. 2012-015*** to Adopt the Spring/Summer Recreation Program and Park Use Fees.

Recommendation: Open Public Hearing, hear comments.
Close Public Hearing.
Adopt **Resolution** by roll call vote.

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

Mayor Madueño opened the Public Hearing at 6:25:25 p.m.

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

Mayor Madueño closed the Public Hearing at 6:25:31 p.m.

ACTION: *By motion (Tucker / Nygard / passed 4-0) to adopt Resolution No. 2012-015 as presented; motion carried by unanimous roll call vote.*
ABSENT: Councilmember White

6. NEW BUSINESS

Item 6.1: Car Show Special Event Request.

Recommendation: Council to review proposal and approve the event, including limited sponsorship and fee wavier.

Sue Fitzpatrick, Director of Parks and Recreation, explained how this request would be the first test to begin using a new special event permit packet and proceeded to present the staff report, clarifying the item was before Council due to a request for a fee waiver and partial City sponsorship. Recommendation was made to approve implementation of a $200 refundable deposit to cover the loss or damage of city barricades when borrowed and handled by others (not staff) as well as presenting Council with a fee schedule should the City not provide sponsorship. She also requested that discussion of the Farmer's Market event take place at the next City Council meeting as it would occur in conjunction with the Car Show event.

Council and staff discussed the item.

Mayor Madueño and Ms. Fitzpatrick requested that the Farmer's Market event be placed on the next City Council agenda; no one objected.

ACTION: *By motion (Nygard / O'Brien / passed 4-0) to approve Item 6.1 as presented; motion carried by unanimous roll call vote.*
ABSENT: Councilmember White

Item 6.2: **Resolution** Approving the Foundation for Youth Investment Fund Grant submittal.

Recommendation: Council to review the project proposed and adopt the Resolution to approve by roll call vote the submittal of the grant proposal.

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

City Manager, Jill Anderson, clarified that the 50% match would be obtained by receiving credit for the staff time spent on the program (salaries of the Director and Supervisor paid by the City and hourly staff time already allocated).

ACTION: *By motion (Tucker / Nygard / passed 4-0) to approve Item 6.2 as presented; motion carried by unanimous roll call vote.*
ABSENT: Councilmember White

Item 6.3: Council Policy for Boards, Commissions, Committees and Ad hoc Task Forces.

Recommendation: Discuss policy concerning City representatives on Boards, Commissions, Committees and Ad hoc Task Forces and take action to allow reappointments to advisory bodies.

City Manager, Jill Anderson, opened the item for discussion and thanked former Interim City Manager, Pam Carder, for her assistance. Ms. Carder presented the staff report.

Council and Staff discussed the item.

Public Comment:

- *Mr. Scott McRitchie agreed with incumbents reapplying if interested in continuing to serve and in the future board members be aware of when their term expires and what to expect (with a policy and procedure in place).*
- *Mr. John Degele, Housing Authority, spoke in regards to how the former process of selection consisted of a small committee that included city staff and requested that process remain in some form, and was also in agreement with the competitive process.*

Mayor Madueño requested to table the item and have Staff research best practices to filling vacancies, what other cities are doing (policies and procedures), and provide suggestions to achieve consistency for all appointments to the boards, commissions, and committees. Councilmember O'Brien suggested having a committee review [applicants] *prior to Council consideration. No one objected and all were in agreement to table the item.*

Action: *Council agreed to table the item for further staff research.*

Item 6.4: Make Appointment to the Housing Authority Board.

Recommendation: Appoint Linda Herron to the Housing Authority Board and accept Scott McRitchie's withdrawal of his resignation allowing him to finish out his term.

Pam Carder, former Interim City Manager, presented the staff report.

ACTION: *By motion (Nygard / Tucker / passed 4-0) to approve the appointment of Linda Herron to the Housing Authority Board and accept the withdrawal of Scott McRitchie's resignation; motion carried by unanimous roll call vote.*
ABSENT: Councilmember White

MAYOR MADUEÑO RECESSED FOR A BRIEF BREAK AT 6:55 P.M.
MAYOR MADUEÑO RECONVENED THE MEETING AT 6:58 P.M.

Item 6.5: Choose Not To Appoint Two Members To The Oversight Board Of The Designated Local Authority and Take Action on Request to Provide Staff for Meetings of the Designated Local Authority.

Recommendation: Choose NOT to appoint two members to the Oversight Board of the Designated Local Authority and decline providing services to the Designated Local Authority.

Marisela Hernandez, Finance Director, presented the staff report; Council and staff discussed the item.

City Attorney, Tom Hallinan, explained his legal view of the potential liability by appointing members and providing staff assistance.

Councilmember O'Brien disagreed with the potential liability and expressed concern with not providing assistance to a situation created by the Riverbank RDA and the appearance of being uncooperative.

City Manager, Jill Anderson, explained from the staff perspective of liability, a new committee with limited experience would require outlining the staff's role and could lead to considerable responsibility to provide consultant/legal/financial support; she recommended staff be limited to solely providing all required information.

Ms. Hernandez stated she prepared and posted the Committee's first agenda, but subsequent meeting preparations (agendas, minutes, etc.) would be their responsibility.

<u>*ACTION:*</u> *By motion (Nygard / Tucker / passed 3-1) to choose not to appoint two members to the Oversight Board of the Designated Local Authority and decline providing staff services to the Designated Local Authority; motion carried by roll call vote.*
NAY: Councilmember O'Brien
ABSENT: Councilmember White

<u>7. COMMENTS</u>

<u>Item 7.1:</u> Staff Comments: (Information Only – No Action)

Jill Anderson, City Manager, thanked Council for the opportunity to serve and thanked staff for a warm welcome.

<u>Item 7.2:</u> Council Comments: (Information Only – No Action)

Councilmember Tucker welcomed Ms. Anderson and stated she looked forward to working with her.

Councilmember O'Brien welcomed Ms. Anderson and reported out on the StanCOG policy Board: 1) suggesting review of the Cal Transportation Security Grant Program which ROTA should be applying for to lower operating costs; 2) suggesting review of the calculus on the State Transit Systems Fund based on population and the potential "double-dipping" in counting people twice; 3) discussion of using advertising funds for local buses as the fare box ratio of which he disagreed with. He concluded stating that although he disagreed with the last vote, everyone is acting in the best interest of the city.

Vice Mayor Nygard welcomed Ms. Anderson and stated she looked forward to a good working relationship. She spoke in regards to Councilmember White's unfortunate incident wishing him and his family the best and agreed with Councilmember O'Brien in requesting Councilmember White to resign so that he could address his personal situation.

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

Mayor Madueño spoke in regards to: 1) welcoming Ms. Anderson and thanking her for the opportunity to take on the challenges and moving past the negative, working towards building a team and building a community; 2) reminding Council their public display of behaviors and attitudes reflect on the entire Council and community; 3) being misquoted in the Modesto Bee in regards to the Mayors Committee, explaining the positive role of the Committee and the unity of its members to work and collaborate together, and stated the agendas would be publicly posted in the future; and 4) thanked J.D. Hightower, Development Services Director, for arranging a trip to Lindsay, California, to view their CDBG funded project in which they converted an old nut company into a sports/recreation complex that is successfully operating; indicating that there is local interest in opening up a soccer arena, which will be pursued.

MAYOR MADUEÑO ANNOUNCED THE CLOSED SESSION ITEMS AND RECESSED TO CLOSED SESSION 7:22 P.M.

8. CLOSED SESSION

Item 8.1: **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

Recommendation: Council to give direction to Staff.

Item 8.2: **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

Recommendation: Council to give direction to Staff.

MAYOR MADUEÑO RECONVENED FROM CLOSED SESSION AND REPORTED OUT AT 7:38 P.M.

9. REPORT FROM CLOSED SESSION

Item 9.1: Report from Closed Session on Item 8.1 - **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION:** Danise Huey v. City of Riverbank

__ACTION:__ *Direction was given to staff.*

__Item 9.2:__ Report from Closed Session on Item 8.2 - **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 to staff.*

__ADJOURNMENT__

There being no further business, Mayor Madueño adjourned the meeting at 7:39 p.m.

ATTEST:

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Annabelle Aguilar, CMC
Deputy City Clerk

APPROVED:

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Virginia Madueño
Mayor