CITY OF RIVERBANK
CITY COUNCIL
MINUTES
MONDAY, JANUARY 9, 2012

CALL TO ORDER:

The City Council of the City of Riverbank met this date in a regular session at 12:00 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 Richard O'Brien
Councilmember Dotty Nygard
Councilmember Jeanine Tucker
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.

Councilmember White stated he had a conflict of interest with Item 4.2 and spoke in regard to the latest actions of the Quo Warranto case, which he viewed as a weak case and a waste of City funds .

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.

Scott McRitchie requested appointment of a citizens committee made up of different people, including a Councilmember, to work with the Local Redevelopment staff to help them produce documents that the citizens and City Council can understand.

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 January 9, 2012, City Council meeting was posted on the City Chamber bulletin board on January 4, 2012.

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

Item 3.C: Approval of the January 9, 2012, Study Session City Council Minutes.

Item 3.C-1: Approval of the January 9, 2012, regular City Council Minutes.

Item 3.D: **Resolution No. 2012-001** Approving the Warrant Registers for 12/08/11 and 12/22/11 for the City of Riverbank.

Recommendation: Approval by roll call vote of Consent Calendar.

Councilmember O'Brien inquired about Item 3.D not having the credit card receipts to review. Marisela Hernandez, Finance Director, offered to have the warrant removed from the agenda and brought back at the next meeting for approval with the requested documentation. Mayor Madueño requested that information also be provided for the petty cash expenditures. Pam Carder, Interim City Manager, suggested the warrants be approved with the exclusion of the credit card and petty cash expenditures; Council agreed.

ACTION: ***By motion (Nygard / Tucker / passed 5-0) to approve Consent Calendar Items 3.A through 3.C-1 as presented, and adopt 3.D: Resolution No. 2011- 001, excluding the credit card and petty cash expenditures; motion carried by unanimous roll call vote.***

4. UNFINISHED BUSINESS

Item 4.1: **Resolution No. 2012-002** to Adopt Legislative Agenda.

Recommendation: Adopt Legislative Agenda and authorize the Mayor, Vice Mayor, Council Members, City Manager and Department Heads to submit letters to legislators at both the State and Federal level expressing support or opposition to proposed laws and regulations based on the positions taken in the Agenda.

Pam Carder, Interim City Manager presented the staff report; Council and Staff discussed the item.

ACTION: *By motion (Nygard / O'Brien / passed 5-0) to adopt Resolution No. 2012-002 as presented; motion carried by unanimous roll call vote.*

Item 4.2: **Resolution** Authorizing Additional Appropriations of $30,000 for on-going Expenses through June 2012 in General Funds for Legal Services for the Quo Warranto Case.

Recommendation: City Council to adopt Resolution authorizing the appropriation of $30,000 for on-going expenses through June 2012 in General Fund Reserves for Legal Services associated with the Quo Warranto.

Council and Staff discussed the rescheduling of Item 4.2 and the dollar amount to be changed to $20,000.00.

Mayor Madueño requested further discussion of the item; Councilmember White recused himself from the meeting and departed the room at 12:12 p.m. due to conflict of interest reasons stated earlier.

Council discussed payment and consideration of the item.

Public Comment: Mr. Charles Neal spoke in regards to his opinion of the legal case and the cost to the taxpayers.

ACTION: *By motion (Tucker / Nygard / passed 3-1) to continue this Item to the January 23, 2012, City Council meeting for consideration.; motion carried by roll call vote.*
NAY: Councilmember O'Brien

Councilmember White returned to the dais at 12:16 p.m.

5. PUBLIC HEARINGS: None.

6. NEW BUSINESS

Item 6.1: Annual Financial Report

Recommendation: Council to accept Annual Financial Report.

Marisela Hernandez, Finance Director, presented the staff report. Ms. Michelle Gallagher, Clendenin Bird & Company, presented the Annual Financial Report.

ACTION: *By motion (O'Brien / Tucker / passed 5-0) to accept the Annual Financial Report as presented; motion carried by unanimous roll call vote.*

Item 6.2: Explanation of Fund 145: Overpass Fund & Fund 125: Special Building Projects Fund.

Recommendation: Council to receive & discuss report.

Marisela Hernandez, Finance Director, presented the staff report, noting the lack of documentation for the transfer of $296,497.00 from Fund 145 to another Fund and indicated the Fund was annually audited with no finding of misappropriation of funds.

Councilmember O'Brien inquired about the item.

Public Comment: *Mr. Charles Neal spoke in regards to the City's misuse of System Development funds collected, the City's noncompliance with AB 1600 and Government Code 66000 to 66008, and the lack of records for the nearly $300,000.00. He requested a legal opinion, citing the law that allowed the City to use the funds in the manner that they've been used.*

City Attorney, Tom Hallinan, provided his legal opinion of the matter; Council and Staff discussed the item.

Public Comment:
- *Mr. Charles Neal spoke in regards to not receiving information to his inquiries on how the City established Fund 125.*

- *Steve Madison, Building Industry Association Representative, spoke in regards to staff researching records for legislative action that would have approved the transfer of the $296,000.0; his concern with financial controls allowing one individual the ability to transfer a large amount of funds; and confusion on how that amount could be missing from the account in absence of any infrastructure of the project. He also expressed concern with nearly $87,000.00 of administrative fees; explaining how all costs, including administrative fees of 1-2%, were usually calculated in the impact fees. He stated the City's manner of charging the administrative fees were exorbitant and requested that Council look into how these charges are being made and also look into the other fund accounts since irregularities in the fees are passed on to the homebuyer which will make housing more expensive.*

Ms. Hernandez clarified use of Fund 125 and the property purchase in response to Mr. Neal's comment and also explained how the administrative fees were being charged.

Mayor Madueño spoke in regards to appreciation of staff educating the public and implementing a new report process, the unfortunate records incident, the duty of Council to account for every dollar, and cautioned those who publicly speak exaggerating the issues and misleading the public.

Ms. Carder responded that the annual report (to show compliance with AB 1600) will be presented to Council every December 15th and the first catch-up report will be presented as soon as possible.

Item 6.3: Resolution Authorizing A Budget Amendment of $47,764 for the Payment of the Riverbank Housing Authority SCFPD Special Property Assessment**.**

Recommendation: Council to adopt the Resolution authorizing a budget amendment in the amount of $47,764 to begin the payment of the Housing Authority Stanislaus Consolidated Fire Protection District (SCFPD) Special Property Assessment.

Marisela Hernandez, Finance Director, presented the staff report.

Mr. John Degele, Chairperson for the Housing Authority, spoke in regards to the Authority's understanding of the matter. Mr. Phillip Avila, Attorney representing the Housing Authority, explained his legal opinion of the matter and actions taken to-date.

Council, Staff, and Housing Authority Representatives discussed the item.

Ms. Hernandez explained changes of the payment to exclude the penalties, which changed the budget amendment to $34,653.00.

Public Comment:

- *Mr. Scott McRitchie spoke in regards to the Housing Authority's payment of the Assessment in prior years and the sudden substantial assessment increase that caused the Authority to further investigate the matter.*
- *Mr. Charles Neal spoke in regards to the potential of the Local Redevelopment Authority property not being exempt and the City's responsibility to pay the fire assessment on that property.*

City Attorney, Tom Hallinan, stated his legal opinion and agreed to have Staff schedule a meeting with all parties involved to resolve the matter.

ACTION: *By motion (Nygard / O'Brien / passed 5-0) to adopt Resolution No. 2012-003 authorizing a budget amendment of $34,653.00, excluding the penalty payment, and to have an update of its status presented to Council; motion carried by unanimous roll call vote.*

Item 6.4: **Resolution No. 2012-004** to Elect to (A) Become the Successor Agency for the Riverbank Redevelopment Agency or (B) Not to Become the Successor Agency.

Recommendation: Council to adopt resolution to either (A) elect to become the successor agency for the Redevelopment Agency or (B) elect not to become the successor agency for the Redevelopment Agency.

Marisela Hernandez, Finance Director, presented the staff report; Vice Mayor O'Brien spoke in regards to the decisions Council and the RDA had made and their duty to accept the full responsibility of the debt.

Public Comment:

- *Mr. Scott McRitchie spoke in regards to loss of retirement money due to bonds and asked what it would cost to pay from the General Fund and how it would affect the citizens, stating he didn't believe in defaulting, but was concerned about losing city services.*

- ***Mrs. Evelyn Halbert spoke in regards to her understanding of the language of the bonds and the prohibition of using City funds to pay RDA debt. She also inquired whether a conflict existed with two Councilmembers that owned property in the RDA area.***

Council and Staff discussed the item further.

ACTION: ***By motion (O'Brien / Madueño / failed 1-4) to adopt Resolution No. 2012-004 (A), electing to become the successor agency for the Redevelopment Agency as presented; motion failed by roll call vote.***

ACTION: ***By motion (White / Nygard / passed 4-1) to adopt Resolution No. 2012-004 (B), electing to not be the successor agency for the Redevelopment Agency as presented; motion carried by roll call vote.***

MAYOR MADUEÑO RECESSED THE CITY COUNCIL MEETING TO THE REDEVELOPMENT AGENCY MEETING AT 1:54 P.M.

MAYOR MADUEÑO RECONVENED THE CITY COUNCIL MEETING AT 2:05 P.M.

7. COMMENTS

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

Pam Carder, Interim City Manager announced that next Tuesday (01/17/12) at 6:30 p.m. at the Teen Center a Community meeting was scheduled for the public to meet the top three City Manager candidates and a Council Workshop to discuss the goals was scheduled on January 31 at 1:00 p.m.; Council agreed to wait until the new City Manager was in place to proceed with the goals session.

J.D. Hightower, Development Services Director, announced a Community meeting at 5:00 p.m. at the Community Center regarding the presentation on the impacts of the Tuolumne County Quarry Project.

Marisela Hernandez, Finance Director, announced that the budget process was beginning and the Budget Advisory Committee will be meeting quarterly; Council will be advised of the meeting schedule.

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

Councilmember Nygard spoke in regards to starting a new year with a renewed sense of commitment and dedication to the citizens, and to be a great team; she wished everyone a safe new year.

Councilmember White reiterated his previous comments in regards to the Quo Warranto and that the Council's goal should be services.

Councilmember Tucker spoke in regards to the inaccurate remarks made by Councilmember White in reference to the Quo Warranto and the need for people to trust in the process of handling the issue. She announced the formation of a Neighborhood Watch Group in her community and encouraged others to do so.

Vice Mayor O'Brien spoke in regards to his disappointment with the action taken (on the Resolution for the City to not become the Successor Agency) and is a firm believer of the Second Amendment, and expressed a happy 2012 to everyone.

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

Mayor Madueno spoke in regards to: 1) the State of the City Address was planned for February 9th at 6:00 p.m., more details would follow and asked that Council Members join her; 2) a letter to the Modesto Bee Editor on behalf of the nine Mayor's of Stanislaus County to dispel rumors; 3) joining Debbie Olson (LRA Executive Director) on January 11th at 8:30 a.m. for the monthly Board of Realtors meeting to take an opportunity to highlight Riverbank's successes; 4) tomorrow morning at 8:30 in the Council Chambers, a new Chamber Board of Directors would be sworn in; 5) observing the City of Patterson's Skate Park with evening lighting and asked why the City's Skate Park did not have evening lighting; 6) appreciation for everyone interested in attending Council meetings, the privilege of serving with her peers on the Council, and the expectation of the year 2012 to be a stellar year for the City; and 7) her belief that each Council Member is committed in serving in the best interest of the community, and that much more would be accomplished if people would speak with solid facts, be respectful, and accept and understand each others differences.

MAYOR MADUEÑO ANNOUNCED THE CLOSED SESSION ITEMS AND RECESSED TO CLOSED SESSION AT 2:21 P.M.

<u>8. CLOSED SESSION</u>

<u>Item 8.1:</u> **PUBLIC EMPLOYEE APPOINTMENT**
Pursuant to Government Code § 54957
Title: City Manager

<u>Recommendation:</u> Council to give direction to Staff.

<u>Item 8.2:</u> **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
Pursuant to Government Code § 54956.9(a)
Name of Case: City of Riverbank v. Jesse James White
Stanislaus Court Case No. 663468

<u>Recommendation:</u> Council to give direction to Staff.

MAYOR MADUEÑO RECONVENED THE CITY COUNCIL MEETING AT 3:45 P.M.

<u>9. REPORT FROM CLOSED SESSION</u>

<u>Item 9.1:</u> Report from Closed Session Item 8.1: **PUBLIC EMPLOYEE APPOINTMENT** – City Manager

<u>ACTION:</u> *Council gave direction to Staff..*

<u>Item 9.2:</u> Report from Closed Session Item 8.2: **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION** – City of Riverbank vs. Jesse James White

Therewas no reportable action.

<u>ADJOURNMENT</u>

There being no further business, Mayor Madueño adjourned the meeting at 3:47 p.m.

ATTEST:	**APPROVED:**
______________________________	______________________________
Annabelle Aguilar, CMC	**Virginia Madueño**
Deputy City Clerk	**Mayor**