

RESOLUTION NO. 126-12

RESOLUTION TO PROVIDE FOR PUBLIC SAFETY IN THE REFINERY REBUILDING

WHEREAS, given the seriousness of the August 6, 2012 fire and the potential threat of a refinery accident to the residents of Richmond, it is essential we make sure we have a full damage assessment and the most current industry information in the rebuilding process; and

WHEREAS, the role of the permitting process is to allow the community to insure that safe practices are followed; and

WHEREAS, even in the case of basic repairs the spirit of the state building codes provides that safety is the primary consideration (for example: State Building Code **3405.1.1 Dangerous conditions**. Regardless of the extent of structural or nonstructural damage, the building code official shall have the authority to require the elimination of conditions deemed dangerous.); and

WHEREAS, by both independent and Chevron's own reports, a pipe ruptured August 6 due to corrosion; and

WHEREAS, preliminary reports by the Chemical Safety Board indicate a failure by Chevron to follow its own internal policies and inspect and replace the failed piping during the November 2011 turnaround; and

WHEREAS, simply rebuilding the crude unit as it was has raised serious questions regarding the potential for another serious incident to occur; and

WHEREAS, on October 2, 2012, the City Council unanimously adopted a resolution regarding the repair of damage associated with the August 6, 2012 Richmond refinery incident that, among other things, directed City staff to ensure that the repaired project shall conform to all applicable safety and environmental standards, and shall use the best available technology for minimizing pollutant emission to the maximum extent feasible.

WHEREAS, since Chevron has started the rebuilding, recent industry findings indicate that Chevron's proposed use of Chrome 9 piping is not an adequate safety measure and demonstrate the need of open information and public input into the process.

NOW THEREFORE BE IT RESOLVED, that the City Manager formally inform Chevron, by way of a letter on behalf of the City Council, that if it repairs, rebuilds or replaces equipment that sustained damage associated with the August 6, 2012 incident before the investigation of this incident has been completed, Chevron does so at its own risk and the City reserves the right to require that work completed be disassembled and redone based on investigation information newly released.

BE IT FURTHER RESOLVED that City staff provides the City Council a full report in writing, as a public document, on the procedures they are using to ensure the health and safety of the public in the permit review process.

BE IT FURTHER RESOLVED that City staff shall make all reasonable efforts to seek the expeditious release of any and all relevant information developed by the Chemical Safety Board, Bay Area Air Quality Management District, and Chevron to the public.

BE IT FURTHER RESOLVED that City staff shall continue to work as closely as possible with public agencies and independent organizations like Communities for a Better Environment that have demonstrated both technical expertise and commitment to the public interest on issues regarding the impact of refinery operation on the public.

BE IT FURTHER RESOLVED, that the City Council expects City staff to exercise its authority under Richmond Municipal Code 6.02.160(B), California Building Code 107.4, California Fire Code Fire Code 105.4.1 and Business and Professions Code 6735, to require that all drawings, specifications and calculations in permit application supporting documents be

signed and sealed by a California professional engineer licensed in the discipline pertinent to the content of the documentation; and

BE IT FURTHER RESOLVED, that the City Council expects City staff to exercise its authority under 3405.1.1 of the California Building Code, which states: "Regardless of the extent of structural or non-structural damage, the building code official shall have the authority to require the elimination of conditions deemed dangerous," and staff shall provide a report documenting how "conditions deemed dangerous" have been eliminated; and

BE IT FURTHER RESOLVED, that the City Council expects City staff to consider, in the review of permit applications, Richmond Municipal Code 6.43.050(d)(3) that requires: "For all covered processes, the stationary source shall consider the use of inherently safer systems in the development and analysis of mitigation items resulting from a process hazard analysis and in the design and review of new processes and facilities. The stationary source shall select and implement Inherently safe systems to the greatest extent Feasible. If a stationary source concludes that an inherently safer system is not feasible, the basis for this conclusion shall be documented in meaningful detail. This documentation shall include:

- (A) Sufficient evidence to demonstrate to Contra Costa Health Services' satisfaction that implementing this inherent safer system is impractical, and
- (B) The reasons for this conclusion.

BE IT FURTHER RESOLVED, that the City Council expects City staff to provide full documentation, including agreements that describe obligations, errors and omissions insurance (if any) and technical qualifications for any individuals and organizations, public and private, to whom permit review has been delegated; and

BE IT FINALLY RESOLVED, that City staff shall plan a community meeting as soon as the Chemical Safety Board's metallurgy report is released (expected in December) to hear from the CSB and also to hear from City staff on how, based on the newly released CSB report, they will be ensuring that past and future permitted activities shall use the best available technology for minimizing pollution emission and health and safety hazards to the maximum extent feasible.

I certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond at a regular meeting thereof held on November 20, 2012, by the following vote:

AYES: Councilmembers Beckles, Butt, Ritterman, Vice Mayor Rogers, and Mayor McLaughlin.

NOES: Councilmembers Bates.

ABSTENTIONS: Councilmember Boozé.

ABSENT: None.

DIANE HOLMES
CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:

GAYLE MCLAUGHLIN
Mayor

Approved as to form:

BRUCE GOODMILLER
City Attorney

State of California }
County of Contra Costa } : ss.
City of Richmond }

I certify that the foregoing is a true copy of Resolution No. 126-12, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on November 20, 2012.