

Chevron: A variety of donations, concessions

Continued from page A-11

one hand," said Denny Larson, spokesman for Citizens for a Better Environment, one of several local groups calling for stricter safety measures. "But we will still be evaluating our legal options."

On Dec. 16, the commission granted Chevron a permit to retrofit its Richmond refinery on the condition that Chevron donate to community programs almost \$2 million annually for 30 years.

Because the modifications are required by both state and federal law to comply with the 1990 Clean Air Act, Chevron claimed the conditions were illegal because they had no "reasonable relationship" to the refinery upgrade.

"The additional conditions imposed by the Planning Commission are not properly related to our project. And it is important to separate issues that are not related to it," said Chevron General Manager Michael Hannon at Monday's meeting.

The City Council agreed.

At Monday night's lengthy council meeting, City Manager Floyd Johnson said that the conditions would probably not survive a court battle because of the vague link between the community donations and the upgrade.

However, Chevron officials did agree to make a different set of monetary donations and concessions, including a promise to maintain current safety standards should the company begin using a different kind of crude oil

at its Richmond refinery.

"That is a big concession," said Mayor Rosemary Corbin. "That is the first time Chevron ever agreed to that," she said.

Other concessions by Chevron pleased environmentalists as well.

Chevron promised to spend \$1.4 million to upgrade Richmond's community alert and notification system and implement a five-year education program. It will also fund a city emergency services coordinator position and provide almost \$2 million to operate the ailing Martin Luther King Health Center.

"The package (promised by Chevron) in funding for community health, safety and education projects is a clear victory for the community," said Henry Clark, executive director of the West County Toxics Coalition. "A month ago, Chevron said absolutely no to any funding for these projects. Our grassroots efforts made the difference."

Whether the difference is enough to keep environmentalists at bay is not yet clear. The groups have 20 days to file a lawsuit.

Still at issue, noted Mark Leedie, spokesman for the pro-environmentalist West County Toxics Coalition, are concerns that "none of Chevron's proposals resembles a serious attempt to reduce pollution."

The proposals, Leedie said, are "all watered-down versions" of measures environmental groups say are necessary to ensure "net decreases in emissions and better safety at the refinery."

Wednesday, January 26, 1994

THE OAKLAND TRIBUNE

Chevron cash may defuse activists' ire

By Daniel Vasquez
STAFF WRITER

RICHMOND — Environmentalist groups said Tuesday they are pleased with concessions made by Chevron Corp. in its bid for approval of plans to upgrade the company's refining facilities.

But the environmentalists also said they may still sue Chevron, the city's largest taxpayer, to force it to adhere to stringent pollution and safety measures.

The Richmond City Council voted 8-0 Monday to overturn a decision by the Planning Commission to impose nine conditions on the approval of the company's \$660 million cleaner fuels project.

In its vote, the council wiped out the stringent conditions recommended by the commission, leaving environmentalists and concerned residents on the offensive.

"We are declaring a victory on

Please see **Chevron**, page A-12

San Francisco Examiner

Wednesday, January 26, 1994

Richmond council OKs refinery project

\$60 million mitigation vote by planners overruled

By Jane Kay
EXAMINER ENVIRONMENTAL WRITER

The Richmond City Council, overruling its Planning Commission, has refused to make Chevron USA spend \$60 million for an environmental and community development program in exchange for permission to build a \$600 million clean-fuels project.

Instead, the City Council on Monday approved Chevron's permit to expand the Richmond refinery. The oil company said it would pay \$4.4 million for community health-care and public safety measures.

For weeks, the mayor and council members have been under heavy lobbying by Chevron and citizens groups concerned about industrial toxic spills.

The \$4.4 million plan includes \$2.1 million for the Martin Luther King Jr. Health Care Center and \$1.7 for emergency-notification equipment and sirens in the event of spills or leaks.

Chevron also promised to finance mentor programs for youth and expand a policy to buy materials and services in Richmond.

"We're very pleased with the unanimous vote we received from the City Council in support of our appeal," Chevron spokesman Hal Holt said after the meeting.

"The conditions were illegal and unconstitutional and we couldn't accept nor comply with them."

Although community groups were disappointed at reversal of the Planning Commission's decision last month, there was praise for the outcome.

"The package of over \$4.3 million in funding for community, health, safety and education projects is a clear victory for the community," said Henry Clark, director of the West County Toxics Coalition.

"A month ago Chevron said absolutely no to any funding for these projects. And our grass-roots efforts made the difference."

But Denny Larson, a spokesman for Citizens for a Better Environment, said even though "Chevron went from zero to offering \$4.4 million," the mitigation measures required by the City Council fell far short of the conditions imposed Dec. 17 by the Planning Commission.

The Planning Commission had ordered Chevron to contribute \$1.8 million a year for 30 years into a fund for environmental education, housing development, job creation, health care and other benefits.

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Chevron Revamping Approved

Richmond council overturns
planning commission decision

By Dan Reed

Chronicle Correspondent

Heeding warnings that the city had overstepped its power, the Richmond City Council early today unanimously withdrew a demand to require Chevron to donate almost \$60 million to community programs in exchange for a permit to upgrade its refinery.

The council, capping an often rowdy 4½-hour meeting, instead approved Chevron's \$660 million clean-fuels project and adopted a separate, \$3.5 million package of community donations from the company.

The council conceded that fear of legal action from the oil firm contributed to its decision this morning. In effect, the council's 8-to-0 vote overturned a decision made by the planning commission last month.

The planning commission ignited controversy when it required Chevron to pay nearly \$2 million a year for 30 years to a community foundation for health, education and public safety programs — in exchange for permits to upgrade the refinery.

Richmond City Manager Floyd Johnson told the council last night the conditions imposed on the refinery's proposed retooling would probably not withstand a legal challenge by Chevron.

The decision drew an immediate denunciation from environmentalists, who threatened a lawsuit on behalf of the community.

"Unfortunately, the poor judgment of the City Council leaves the community no choice but to sue," said Denny Larson, organizer for Citizens for a Better Environment. "Chevron has used jobs blackmail to convince the city to back down."

Chevron, like most refineries across the country, is investing millions of dollars to meet federal requirements to produce cleaner-burning fuels by 1995.

Chevron officials presented the compromise offer last night of a one-time payment of about \$3.5 million in community donations.

Michael Hannan, the Chevron plant's general manager, told the council that it should not make the offer part of the approval conditions. But he quickly added that the company would only contribute the money if the planning commission's decision were overturned.

Henry Clark, executive director of the West County Toxics Coalition, pleaded with the council to delay a decision for 45 days.

More than 1,000 people attended the public hearing and about 100 testified about the project.

"My job is at stake; my family's life is at stake," said one construction worker. "Chevron is not the enemy, but a vital part of our community."

Chevron fight packs in 1,000

Catcalls, warnings of lawsuits

By WILLY MORRIS
Staff writer

RICHMOND — More than 1,000 people filled the Richmond auditorium Monday night to lobby for and against a \$54 million package of conditions placed on a Chevron refinery modification project.

The audience was dominated by oil and construction workers who offered a background of applause and catcalls to support Chevron's appeal of a Dec. 16 Planning Commission decision that imposed the conditions.

No action had been taken by 10:45 p.m., when the City Council was prepared for another hour of public testimony during a meeting that began at 8 p.m.

Chevron opened the meeting by formally unveiling a \$4.2 million package of voluntary donations to a variety of community projects.

The package was negotiated over the past week by council members, city staff and Chevron officials who hoped to gather the six votes needed to overturn the Planning Commission decision and avoid threatened lawsuits.

"We're trying the best we can to recognize the concerns people have raised and respond to them," refinery manager Mike Hannan told the council.

City Manager Floyd Johnson introduced the Chevron proposal as



DAVID TOERGER/Times

REFINERY and construction workers dominate an audience Monday night to oppose Richmond's conditions on a Chevron project.

a win-win arrangement that would respond to concerns of Chevron and the environmental and community activists who proposed more stringent controls.

Johnson advised the council

that the conditions approved by the Planning Commission were probably illegal.

"I, as your city manager, have concluded that the Planning Commission ... perhaps tried to send a

message to Chevron and by doing so they have added conditions which we believe would be difficult to sustain upon legal challenge."

But if the council votes to over-

turn the commission's decision, the city may be sued by environmental groups.

Henry Clark, executive director

Please see **CHEVRON**, back page

Chevron

FROM PAGE 1A

of the West County Toxics Coalition, said Chevron's package does not include the environmental controls necessary to reduce pollution from the project. The package also does not provide enough benefits for North Richmond residents who are most affected by refinery emissions, he said.

"At this point, with what we have before us, we are dissatisfied with that and we are considering taking the necessary legal action," he said.

Chevron's proposal includes \$2.1 million to help the Martin Luther King Jr. Health Center keep its doors open and provide a mobile health van, \$750,000 to begin installing an emergency warning system and \$525,000 to install warning sirens.

Richmond drops wish list sought from Chevron

Refiner agrees to \$4.2 million deal

By WILLY MORRIS
Staff writer

RICHMOND — Environmental groups and business interests both claimed victory Tuesday after the City Council overturned a controversial package of conditions tied to a \$660 million construction project at the Chevron refinery.

Although the council's action killed a \$54 million community development fund sought by environmental and community activists and approved by the Planning Commission, Chevron agreed to spend \$4.2 million to fund public safety, health and educational programs.

A unanimous vote on the two items at 12:45 a.m. Tuesday brought to a close 4½ hours of testimony by 105 speakers who joined about 1,000 spectators. The meeting was moved to the Richmond auditorium to accommodate the large audience.

"I think we did accomplish a lot," Mayor Rosemary Corbin said of the compromise fashioned to avoid threatened lawsuits. "Neither side is completely happy, but maybe that's the way it has to be."

Environmental activists said they still are considering legal action because the Chevron compromise is too vague and does not provide benefits for North Richmond resi-

dents who are most affected by refinery emissions. But they also took credit for having pushed Chevron into concessions it would not otherwise have made.

"Chevron and (refinery manager) Mike Hannan were saying 'no' to everything at first, so we need to let the community know that this is a big step forward in that sense," said Henry Clark, executive director of the West County Toxics Coalition.

At the same time, business leaders applauded the council for overturning a Planning Commission decision they thought would scare businesses away. John Mejia, chairman of the Richmond Chamber of Commerce, said he knows of at least two companies that delayed large expansion projects because they were worried that the city might slap unreasonable conditions on their projects.

"We think the (council action) sends a message to business that Richmond is pro-business and it plans to stay that way," he said.

The controversy erupted last fall during the environmental review of a proposed \$660 million modification that would enable the refinery to produce cleaner-burning gasoline.

Please see CHEVRON, 1

Chevron

FROM PAGE 1A

required under state and federal clean air regulations.

Although the city planners proposed conditions designed to eliminate significant environmental damage, environmental and community groups said the project would create local air pollution and increase the use of hazardous materials.

The Planning Commission agreed and on Dec. 16 imposed nine additional conditions, including contributions of \$1.8 million a year for 30 years to fund education, recreation and health programs.

Chevron appealed the decision on the grounds that the additional conditions were not related to environmental damage caused by the project. But the company did open negotiations with city officials in an attempt to reach a compromise and avoid lawsuits.

As approved by the City Council, the compromise is divided into two parts. First, Chevron agreed to six measures designed to reduce environmental dangers posed by the refinery. In addition, Chevron will donate \$4.2 million to community programs.

The company will pay \$1.4 million to improve the city's emergency warning system, including the installation of sirens, and for creation of a program to teach people how to respond to chemical emergencies.

Chevron also agreed to donate \$2.1 million to help the financially troubled Martin Luther King Jr. Family Health Center keep its doors open and provide a mobile health clinic. The West Contra Costa Unified School District and Richmond Police Activities League will receive \$400,000 to create a school mentoring program.

Refinery spokesman Hal Holt said the company has tried to respond to community concerns without allowing the city to attach unwarranted conditions to its project.

"The precedent that would have been established ... would be horrendous," he said. "We couldn't accept that. We couldn't accept the idea that there's a wish list and (the city) will attach it to any project at any time."

Mayor is still optimistic about Chevron pact

■ Major dispute over refinery upgrade has many up in arms

By Daniel Vasquez
STAFF WRITER

RICHMOND — Facing her toughest challenge since her election in November, Mayor Rosemary Corbin remains optimistic that Chevron Corp. and city leaders can settle a major dispute over the refinery's proposal to upgrade its facility.

The stakes: Chevron's business future, as well as the city's.

About 600 residents, environmentalists and city and Chevron officials showed up Monday night at a City Council meeting in Richmond Auditorium. Council members considered whether to reverse or endorse Planning Commission guidelines for Chevron's proposed \$660 million clean-fuels project.

The proposal has pitted environmentalists, who support recent Planning Commission recommendations for strict pollution controls, against Chevron and some city leaders, who are trying to work out a compromise. It would not unfairly burden the company, they say.

Chevron has operated a refinery in Richmond since the early 1900s and is the city's largest taxpayer, paying at least \$6 million a year to the city alone, said company spokesman Hal Holt.

Like other refineries nationwide, Chevron must bring its plant into compliance with the 1990 Clean Air Act. Chevron must comply with federal standards by Jan. 1 and with state standards by March 1, 1996.

On Dec. 16, the commission surprised environmentalists and Chevron by voting 6-3 to approve the project with conditions that the refinery adopt several stringent pollution controls. The panel also recommended that Chevron donate to community programs almost \$2 million a year for 30 years.

"We were caught by surprise with these conditions," said Holt.

"This is a very serious situation. What we are talking about is the operation of this refinery, and if these conditions are not removed, one of the things we will have to consider is suing, because we believe (the demands) are unconstitutional because they have nothing to do with the upgrade."

To defuse residents' concerns and head off any legal action, Chevron officials presented a compromise Monday. The company would spend \$1.4 million to upgrade Richmond's community-alert and notification system and implement a five-year education program. It would help fund a city emergency services coordinator position and provide almost \$2 million to operate the Martin Luther King Health Center.

The nine-member council had to have at least six votes to approve or reverse the commission's permit conditions. It had not voted by late Monday.

But a long debate had been expected: Council members had received more than 500 letters on the refinery proposal from residents and Chevron employees. About 90 speakers signed up Monday to air their concerns.

"This is the most response I have gotten on any issue in nine years," said Corbin, who was on the council nine years before being elected mayor.

At the meeting Monday, environmentalists asked the council to approve the commission's conditions or delay the decision 45 days to allow an independent consultant to examine the issues.

Before the commission's list of conditions was released last month, many believed environmentalists would carry the issue into court to demand strict guidelines and long-term community donations.

"Rhetoric like that is dangerous," said Corbin. "Both sides are threatening to go to court, and that would just hold things up. Everybody should strive for a win-win situation, where we have a positive project that does not end up in court."

Chevron Seeks Reprieve From Richmond

By Dan Reed

Charlottesville Correspondent

A stunning victory by environmentalists last month in the fight over Chevron's planned retooling of its Richmond plant is unlikely to survive tonight's City Council meeting — but at 11th-hour bargaining blitz may still force the refinery into a number of significant concessions, city officials said yesterday.

Chevron, the city's largest taxpayer and its economic backbone for nearly a century, will ask council members tonight to reverse the Planning Commission's permit conditions for construction of its \$660 million clean-fuels project. It needs six votes on the nine-member council to succeed.

Last month, the panel approved the project, but only if the refinery adopted a number of strict pollution control measures and donated nearly \$2 million a year for

30 years to community programs — tough demands that surprised almost everybody.

"We never thought we'd get this through the Planning Commission," said Tom Butt, a Point Richmond architect who helped draft the list of conditions. "We were preparing for litigation and guess what — everything flip-flopped."

As a result, it was Chevron that was preparing to sue, arguing that many of the conditions — including the contributions for health, education, economic and public safety programs — were illegal because they had nothing to do with the refinery upgrade.

Like most oil refineries across the nation, Chevron must spend millions of dollars to bring its plant into compliance with the 1990 federal Clean Air Act.

Perhaps in reaction to simmering public hostility, the refinery —

which has orchestrated a letter-writing and phoning campaign to council members — appears ready to make some concessions. According to a deal hammered out over the past few days, the refinery would agree to pay \$3.65 million in community donations.

The proposal, which Chevron is expected to present officially today, calls for \$25,000 to install warning sirens in Richmond; \$125,000 to educate the public on their use; \$300,000 to pay for an emergency coordinator for the city for the next several years; \$400,000 for the Police Athletic League, and \$2.1 million for the Martin Luther King Health Clinic and a mobile emergency health van.

The package is designed to appease those who believe Chevron is not contributing enough locally, but it will not be legally linked to the conditions of the project's approval, council sources said.

"I guess you could call it playing a little hardball," Councilwoman Donna Powers said of the behind-the-scenes negotiations that produced the package. "But I don't think we are holding them up."

But Mayor Rosemary Corbin, who is involved in separate negotiations with the refinery, said council members should remain focused on the project's environmental dangers.

"I think they're missing the point if they are concentrating on goodies to sort of buy votes," Corbin said of the \$3.65 million package. "So they get their six votes — if the other side doesn't get what they think is important, they are going to sue."

The meeting, expected to draw 500 people, will be at 8 tonight in the Richmond Auditorium.

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Richmond council to consider appeal on Chevron project

By WILLY MORRIS
Staff writer

RICHMOND — Cash payments for communities neighboring industrial projects and landfills is a growing nationwide trend the City Council will reluctantly confront Monday night.

Community and environmental groups have hailed a Planning Commission decision forcing Chevron to donate a total of \$54 million to a community development foundation as a move that would compensate Richmond residents for urban blight and other problems created by a \$660 million refinery modification project. The payments would be made in \$1.8 million installments over 30 years.

But City Council members have been inundated with mail and telephone calls from business leaders and Chevron employees who characterize the payments as extortion. The payments would jeopardize the refinery's competitiveness and frighten away other companies that otherwise would do business in the city, they say.

The two opinions will collide Monday night at the Richmond auditorium when the council hears Chevron's appeal of the Planning

PUBLIC HEARING

What: Chevron modification project
When: 8 p.m. Monday
Where: Richmond auditorium, Civic Center Plaza
Phone: 620-6513

INSIDE

Fairness key in dispute over project.

20A

Commission decision. The council also is expected to review a negotiated settlement under which Chevron would agree to donate \$3.45 million, rather than be forced to fork over \$54 million, to a variety of community projects.

Whatever the outcome, interest in the case has extended beyond Richmond and Contra Costa County because of the commission's attempt to force Chevron to make such payments against its will.

"Certainly it is the sort of thing we look upon as being precedential and being quite detrimental to the development of any additional manufacturing in California," said Karen Lindh, policy director for ener-

Please see CHEVRON, back page

■ CHEVRON PROJECT

The Project: Chevron plans to modify five existing refinery units and build one new one. The project is expected to cost \$660 million and take about 30 months to complete.

Objectives: The modifications will enable Chevron to produce "reformulated gasoline," which is chemically altered to release fewer tailpipe emissions than standard gasoline. Under federal law, only reformulated gasoline can be sold in California beginning Jan. 1, 1995. Even stricter state regulations take effect March 1, 1996. In addition, Chevron plans to upgrade its fluidized catalytic cracking (FCC) unit, which will allow the refinery to increase production of gasoline by about 13 percent.

Economic Benefits:

- Increased property taxes: \$2,012,400 per year
- One-time increased sales tax revenues: \$1 million to \$2 million
- Up to 1,070 people will be employed in construction of the project with a total payroll of \$84 million to \$104 million.

Environmental Benefits:

- Regional air quality: The use of reformulated gasoline is expected to cut Bay Area auto emissions by 250 tons per day.
- Regional health risk: The use of reformulated gasoline is expected to reduce the benzene content of auto emissions, which would reduce the average risk of cancer from 547 cases in 1 million people to 420.

Environmental Damage:

- Local air quality: The modified refinery will produce an additional 1,400 pounds of carbon monoxide emissions per day, 830 pounds of hydrocarbons, 310 pounds of nitrogen oxides, seven pounds of particulates and one pound of sulfur oxides.
- Local health risk: It is estimated that toxic air contaminants released as a result of the project would cause an additional eight cancer cases among 10 million people exposed to project emissions continuously for 70 years. Even with the increase attributed to the project, the refinery cancer risk would be below 10 in a million, the level considered significant by air quality officials.
- Hazardous materials: The project would increase the use of hazardous chemicals by about 70,000 tons per year, an increase of about 0.2 percent. Hazardous-waste generation is expected to increase by about 143 tons per year, a 3.1 percent increase.

Source: Environmental Science Associates, environmental impact report on Chevron Reformulated Gasoline and FCC Plant Upgrade Project.

Chevron

FROM PAGE 1A

gy, environment and transportation at the California Manufacturers Association.

Environmental activists see the precedent as a positive one that could help achieve economic justice for largely low-income, minority communities clustered around oil refineries, chemical plants and hazardous waste facilities.

These communities traditionally do not share in the jobs and economic benefits created by such projects, said Robert Wyigul, staff attorney for the Sierra Club Legal Defense Fund in New Orleans.

An illegal demand?

There are many examples throughout the country of companies voluntarily offering neighboring communities direct payments to head off opposition to locally unwanted projects, such as low-level nuclear waste dumps. In fact, environmental groups modeled their original Chevron proposal on a \$750,000-a-year community benefits package negotiated last year to pave the path of a cogeneration plant at the C&H Sugar refinery in Crockett.

But Wyigul, who works with residents of the Louisiana petrochemical belt, said he has never heard of a governmental agency forcing an industry to make such payments as a condition of project approval.

There is, however, a tradition of community environmental groups learning from the successful strategies of their counterparts in other parts of the country, he said.

"That's certainly something I would expect (in this case) and, frankly, it's something that I would pass on to my clients down here," he said.

But Chevron officials contend it is illegal under both California law and the U.S. Constitution for a governmental agency to force Chevron to make this kind of donation.

Chevron attorney Ron Van Buskirk said the U.S. Supreme Court has ruled that land use agencies cannot impose conditions on a project unless they show those conditions are directly related to environmental damage created by the project.

Richmond planning officials have said there is no such connection between the Chevron project and the conditions imposed by the Planning Commission, including the community development foundation, because an environmental study showed few negative effects of the project.

Even if there were a connection, Van Buskirk said the city only could charge fees in proportion to the amount of damage caused by this project. Environmental groups never have quantified the amount of urban blight they believe will be caused by this project, so they have no way to justify the payments approved by the Planning Commission, he said.

Land use issues

Van Buskirk, who has worked on land use issues for 18 years, said he knows of no precedent for the Planning Commission's decision.

"It simply doesn't exist, and the reason it doesn't exist is simple, because no entity would think it was legal," he said.

Attorneys working with the environmental groups are equally convinced their position has strong legal foundations.

Luke Cole, an attorney for California Rural Legal Assistance, compared the proposed Richmond fees to special taxes allowed under state law to compensate communities for the presence of hazardous waste facilities.

Richmond last year imposed a 10 percent tax on California Advanced Environmental Technologies Corp. as a condition for granting the company permits to expand its hazardous waste transfer station on Hensley Street. Those fees are to be spent on community service projects in two nearby neighborhoods.

Although the Chevron project is not technically a hazardous waste project, in a scientific sense it is similar, Cole said. The Chevron project would involve processing hazardous materials to produce new products, just as a hazardous waste treatment facility might collect hazardous wastes and process them to create new products, he said.

"I think the precedent is there," Cole said. "They may be expanding it to a different type of facility, but I don't think it's a new idea. ... I see it as the logical evolution of corpo-

rate accountability."

Others believe they have found even more direct precedents for the Planning Commission's decision.

Richmond attorney Jeremy Tager cited a 1993 Florida case in which the developers of a \$525 million cogeneration power plant agreed to pay \$13 million to purchase environmentally sensitive lands and \$575,000 to build a new fire station. The agreement also included provisions requiring environmental monitoring and limiting air and water pollution.

The settlement was negotiated between a variety of environmental groups and local government agencies, but it was approved by both the Jacksonville City Council and the Florida Department of Environmental Regulation, according to news release from U.S. Generating Co., the project developer.

Richard Toshiyuki Drury, an attorney for Citizens for a Better Environment, pointed to a Culver City case in which the state Court of Appeal has upheld a city action that required a developer to donate money to a community art program as mitigation for increased urbanization created by the construction of 30 townhouses. The case has been appealed to the U.S. Supreme Court.

Drury said this case closely parallels the Chevron case because it deals with the broader community impacts of development.

By adding to the industrial character of Richmond, the Chevron project would decrease property values, increase health problems caused by industrial emissions and increase the risks of a hazardous materials accident, Drury said.

Community development

Payments to a community development fund would pay for education, job training, health and recreation programs that would help to counteract these problems, he said.

"The various mitigation measures at issue here are directly related to the environmental and social costs arising directly and indirectly from the project," Drury wrote in a legal opinion.

But Van Buskirk said other parts of the Culver City case support Chevron's position.

In addition to the art fund, the court considered a \$280,000 fee the city imposed because the developer had destroyed a private athletic club to build the housing project. The court upheld the city's argument that the fee was permissible be-

cause the developer had reduced the amount of recreational space in the city and the fee would be used to create new recreational opportunities.

Van Buskirk said this ruling supports Chevron's position because the court found there was a direct connection between the impacts of the project, reduced recreational space, and the fees imposed. There is not such connection in the Richmond case.

Regardless of the legal opinions, this case may be settled through negotiations.

A few members of the City Council, city staffers and Chevron officials have apparently negotiated a \$3.45 million package under which Chevron would agree to pay for installation of warning sirens throughout the community, provide funds for the Martin Luther King Jr. Health Center and purchase a mobile medical clinic. Chevron also would fund a public education program, a school mentoring program and provide funds so the city could hire an emergency services coordinator.

The package is designed to attract the six votes necessary to overturn the Planning Commission's ruling, but Chevron officials are adamant that this agreement be a voluntary one, not technically tied to the modification project.

Refinery spokesman Hal Holt said the company is willing to negotiate rather than fight the city in court because further delay could prevent Chevron from meeting state and federal deadlines for the production of cleaner-burning gasoline.

"We're on a very tough time schedule, and that's part of the problem," Holt said.

This deadline also gives environmental groups leverage they intend to use to force further concessions from Chevron. After hearing the outlines of the settlement, environmental and community activists said Friday the company must agree to stricter air pollution controls and provide funding for independent technical assistance for the refinery's community advisory panel or they may still file a lawsuit.

But Henry Clark, executive director of the West County Toxics Coalition, implored Chevron officials to work with the community to avoid a lengthy legal battle.

"We have to go forward and work together," he said. "We have to promote this new environmental ethic of working together."

Fairness key in dispute over Chevron project

By WILLY MORRIS

Staff writer

RICHMOND — In addition to legal and political considerations, the City Council is facing basic questions of fairness as it decides whether Chevron should pay \$1.8 million a year for permission to modify its existing refinery.

State and federal regulations require Chevron to change the chemical composition of the gasoline it produces, and to do so the Richmond refinery must alter several oil-refining units at a cost of \$660 million.

"I don't think it's fair to say on the one hand if you want to be in business tomorrow you will build these new facilities, but on the other hand if you want to build these facilities you have to pay for these new conditions," Chevron spokesman Hal Holt said.

Richard Toshiyuki Drury, an attorney for Citizens for a Better Environment, conceded that much of the modification project has been forced on Chevron, but said the company still must build the facilities so they do not injure the surrounding community.

Payments to a community development foundation and other conditions approved by the Planning Commission Dec. 16 would reduce pollution and compensate neighbors for dangers posed by increased industrialization and expanded use of hazardous materials, he said. Chevron would donate \$1.8 million a year for 30 years under the commission ruling.

Tom Butt, an architect and community activist, argued that this requirement would correct the unfairness of Chevron making millions of dollars a year in Richmond while giving only a tiny fraction of those dollars back to the community that is most affected by its pollution, spills and upsets.

Chevron earned almost \$1.6 billion in 1992 on world-

wide sales of more than \$41 billion, according to the company's most recent annual report. Butt said the company makes more than \$27 million in annual charitable contributions but only about \$270,000 went to West County causes in 1991.

Chevron easily could put \$1.8 million a year into a Richmond community development fund, either by reallocating the funds it already donates to charity, or by reducing its profits, said Butt, who has spent the last several months analyzing Chevron's finances.

Holt said Butt's figures on charitable giving are incorrect.

Over the past five years, Chevron has donated about \$500,000 a year to West County organizations through the United Way and direct contributions to deserving charities, Holt said. Butt also misleads people by comparing donations made by the Richmond refinery to total corporate-level donations that are distributed around the world, he said.

After investigating Chevron's relationship with the city, Butt said the company has benefited at taxpayers' expense because of special arrangements it has negotiated with the city. In particular, he cited a cap that limits the refinery's payments under the city's utility users tax and an ordinance that allows Chevron to pay lower building permit fees and hire its own building inspectors.

"My conclusions out of this thing are that these guys have been ripping this city off for a hundred years," Butt said.

Chevron officials contend that they actually pay more under the utility tax cap than they would without it. The certified inspector program ensures greater technical expertise and, therefore greater public protection than would city inspectors.

Secret talks may avoid suits over Chevron payment

By **WILLY MORRIS**
Staff writer

RICHMOND — Chevron and city officials are negotiating an alternative to the Planning Commission's controversial decision requiring Chevron to donate \$54 million over 30 years to a community foundation as a condition for approval of its government-mandated clean fuels project.

The alternative proposal, with a price tag of about \$3.5 million, has been worked out in secret by City

Council members, city staff and Chevron officials in hopes of attracting the six council votes necessary to overturn the commission's Dec. 16 decision and avert a lawsuit.

But environmentalists who supported the Planning Commission recommendation to the City Council warned they will sue if they don't like the compromise.

Under one proposal obtained by the Times, Chevron would provide more than \$4 million in funding for programs ranging from installation

Please see **CHEVRON**, back page

Chevron

FROM PAGE 1A

emergency warning sirens throughout Richmond to a student mentoring program run by the West Contra Costa Unified School District and the Police Activities League.

In return, some council members would agree to back Chevron's appeal of a Dec. 16 Planning Commission decision that would force the company to donate \$1.8 million a year to a community development foundation and take steps to reduce air pollution.

The commission's decision requires Chevron to implement these conditions as it moves forward with plans for a \$660 million refinery modification project that would help it meet state and federal air quality

regulations and increase production of gasoline.

Chevron has appealed the commission's decision on the grounds that it violates state law and the company's rights under the U.S. Constitution. Company officials have threatened a lawsuit if the City Council does not overturn the commission's ruling.

Information about the proposed settlement was provided by local environmental activists who obtained it from unnamed sources involved in the negotiations.

Henry Clark, executive director of the West County Toxics Coalition, said he was withholding comment on the settlement until it is finalized and can be compared with the conditions approved by the Planning Commission.

Clark and other activists said they have always supported a nego-

tiated settlement that would answer their concerns about the refinery modification, but they were upset that community and environmental groups were not included in the negotiations.

The toxics coalition, along with the Richmond Neighborhood Coordinating Council and Chevron's community advisory panel, proposed many of the conditions approved by the Planning Commission because of concerns the project would increase air pollution and the use of hazardous materials.

"We know what is happening, and we are trying to influence it," said Ahmadi Thomas, chairwoman of the toxics coalition. "Unless the deal is acceptable, we will sue."

In addition to any community benefits, a negotiated settlement must include fence-line monitors to track air pollutants, and funding of technical assistance for the advisory panel, composed of community members with little technical expertise.

"We're just putting our foot down," said Mark Mason, chairman of the West County chapter of the Sierra Club. "We don't want any more back-room deals."

Chevron spokesman Hal Holt said he could not discuss the negotiations.

"There's nothing final," he said. "Yes, we are working with city staff and the City Council."

In interviews this week, members of the City Council said they wanted to see a negotiated settlement between Chevron and the environmental groups that would make both sides happy and head off a lawsuit from either side.

Most council members declined to discuss specifics, but Councilman Jim McMillan said he would like Chevron to provide support for health clinics. He said he also wants some sort of triage program to provide health services in neighborhoods like North Richmond. McMillan said Chevron should help the city upgrade its emergency warning system and improve emergency preparedness, as well.

"That would give the community

some sort of feeling of caring," he said.

McMillan's comments correspond to the specifics of the plan Mason said he obtained from an undisclosed source.

According to Mason, Chevron has tentatively agreed to a package of benefits worth \$3.45 million.

He said Chevron has agreed to pay \$525,000 million for the installation of warning sirens throughout Richmond, \$125,000 for a community education program to teach people what to do in chemical emergencies, and \$300,000 to hire a city emergency coordinator.

The agreement also includes \$1.9 million over three years to help fund the Martin Luther King Jr. Health Center, \$200,000 to buy a mobile medical van, and \$400,000 over four years to finance a mentoring program run by the Police Activities League and the school district, Mason said.

The package contains projects promoted by members of the City Council.

Councilwoman Donna Powers proposed the health van to provide health care to those injured by chemical accidents, the homeless and other needy people. McMillan has long sought a solution to the King Health Center's continuing financial problems.

Mayor Rosemary Corbin has campaigned to get an emergency services director to coordinate a variety of programs, including neighborhood earthquake preparedness. Several members of the council, including Powers, Corbin and Jim Rogers, have campaigned for improvements to the city's emergency warning system.