

I. CALL TO ORDER

Mayor Rob Schroder called the meeting to order at 6:00 p.m. in the Council Chambers, 525 Henrietta Street, Martinez, with all members present except Councilmember M^cKillop who was excused and Vice Mayor Avila Farias, who arrived shortly after roll call.

II. CLOSED SESSION

A. CONFERENCE WITH LEGAL COUNSEL--ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9: One potential case.

B. CONFERENCE WITH LEGAL COUNSEL--ANTICIPATED LITIGATION

Initiation of litigation pursuant to paragraph (4) of Subdivision (d) of Section 54956.9: one potential case.

III. PUBLIC COMMENT (Comments are limited only to Closed Session)

There being no comments made, the Council adjourned to Closed Session in the Board Room.

IV. RECONVENE - PLEDGE OF ALLEGIANCE - ROLL CALL

Mayor Schroder reconvened the meeting at 7:00 p.m. in the Council Chambers. He reported a Closed Session was held regarding Conference with Legal Council, Anticipated Litigation, significant exposure, one potential case; and initiation of litigation, one potential case; direction was given to legal counsel.

PRESENT: Lara DeLaney, Councilmember, Mark Ross, Councilmember, AnaMarie Avila Farias, Vice Mayor, and Rob Schroder, Mayor.

EXCUSED: Debbie M^cKillop, Councilmember.

ABSENT: None.

PRESENTATION(S)

PUBLIC COMMENT (COMPLETE SPEAKER CARD AND GIVE TO CLERK) Reserved only for those requesting to speak on items not listed on the Agenda.

Eli Dominguez spoke regarding the U.S. Constitution, about which he thought the Council lacked knowledge. He raised concerns about the homeless and what the country's flag stands for in addition to the meaning of the Pledge of Allegiance.

Gary Freitas expressed appreciation for the Council's hard work and agreed with Richard Verrilli that the Council, staff, and City employees are all doing a great job considering the limited budget the City has to work from. He indicated that many speakers come up just to attack and complain about everything and not provide any suggestions. He also mentioned that the Pine Meadow's lawsuit is the calm before the storm and the court house is where to go sometimes, not just the council meetings.

Harriett Burt expressed concern with the lack of an adopted General Plan and said it was not clear why the General Task Force was stopped and why it was never brought back. She further mentioned that "Back to Main Street movement," including newcomers who now call Martinez their home also bring capital, new ideas, and marketing skills everyone can appreciate. She suggested that the General Plan Task Force be brought back to continue to assist with the General Plan revision.

John Doe #1 stated that there is no requirement for the public to fill out speaker cards as it is against the Brown Act and the First Amendment to require them. He now goes by John Doe #1 on account of a recent lawsuit. He stated the mayor is wrong for calling on people by name unless they choose to be identified; otherwise there is no reason to put a name on the record. He would like the City Manager to oversee the Council and enforce these laws letting people uphold their rights. He also commented on the past utility tax, redevelopment, and the poor state of the Marina.

CONSENT CALENDAR

A. Motion waiving reading of text of all Resolutions and Ordinances.

On motion by Mark Ross, Councilmember, seconded by Lara DeLaney, Councilmember, to approve waiving reading of text of all Resolutions and Ordinances. Motion unanimously passed 4 - 0. Yes: Lara DeLaney, Councilmember; Mark Ross, Councilmember; AnaMarie Avila Farias, Vice Mayor; Rob Schroder, Mayor.

Mayor Schroder opened public comment on the item with no speakers coming forward.

PUBLIC HEARING(S)

1. Public Hearing to approve a Special Tax Measure and the following items: [C.Mosser& M.Chandler/40.20.00]
 - A. Adopt Ordinance No. 1395 C.S. imposing a special tax for road maintenance and improvements; and
 - B. Adopt Resolution No. 078-16 placing a measure approving such tax on the on the ballot at the November 8, 2016, election; and
 - C. Adopt Resolution No. 079-16 authorizing the City Manager to amend the FY 2016-17 Budget with a budget transfer from Unassigned Fund Balance in the amount of \$50,000.

City Manager Brad Kilger introduced the item, noting it has been brought following direction of the Council from the last meeting.

Assistant to City Manager Michael Chandler reviewed the anticipated timeline, updates since the last meeting, and the actions before the Council tonight.

Councilmember DeLaney noted that the proposed ballot language is not consistent in its references to the purpose of the tax - whether it is for streets or roads, etc. She also questioned the naming of specific streets and roads in Exhibit A language.

Mr. Kilger indicated many other ordinances and resolutions that staff reviewed and had the same problem, using "streets" and "roads" interchangeably. Mr. Chandler suggested "roadways" for consistency, but Mr. Kilger said he thought standardizing with "roads" was best.

There was brief discussion among the Council regarding how projects would be identified and selected, as well as how and where the process should be stipulated.

Councilmember Ross asked about the title proposed for the ballot language, which says "transaction and use tax" rather than "sales tax."

Senior Assistant City Attorney Veronica Nebb discussed the State's preference for it to be called a "transaction and use tax," as defined in the State ordinance. She explained there is no sales tax by definition in the State ordinance. She noted that some jurisdictions have added "(Sales Tax)" for clarification. She also agreed that the supporting documents do not have to specify any roads/streets by name, and the process of identifying projects can be decided later in the process if the Council is agreeable.

Mr. Kilger pointed out that some jurisdictions identify projects through an annual expenditure plan that can be presented at the same time as the annual budget and identified separately for public notification and/or comment.

Councilmember Ross noted that the Citizens Oversight Committee could provide input or guidance as well. Mr. Kilger said that would not be his preference, as the role of the Oversight Committee is to ensure funds are spent properly, but the selection of roads should be recommended by staff based on technical expertise.

Councilmember Ross indicated he has served on oversight committees in the past that have evaluated technical aspects. Mayor Schroder clarified that the details of the Oversight Committee tasks and the selection process do not have to be decided tonight.

Mayor Schroder opened the public hearing.

Richard Verrilli commended the Council for working so well together at the last meeting reaching consensus to the need for the tax and the details about the ballot measure. He asked how the sales tax is determined for a business and Mayor Schroder said it is based on the point of sale. Mr. Verrilli explained he had bought something in Concord that charged sales tax based on the buyer's residence. He also recommended the tax increment be set at three-quarters of a percent (0.75) rather than half a percent (0.50).

Eli Dominguez stated that charging people tax for use of a public road is unconstitutional, based on an opinion of a Supreme Court justice. He was opposed to the tax and suggested the City's reserve funds should be used to make the needed repairs. Mayor Schroder explained that the proposal is for a sales tax increment from which the proceeds will be used to fix the roads; it is not a tax on the use of the roads.

An unidentified woman expressed concern about which roads would be fixed and how they would be selected. If a listing of roads is included, she thought they should represent all areas of the City, or poll the residents regarding where the worst potholes are. She also recommended educating the voters as to why the measure is needed.

An unidentified man stated that since this is a sales tax it should be identified as one in the ballot materials. He questioned how many businesses were notified that the Council was proposing an increase to the sales tax. He was concerned about an undue burden on the businesses. He also noted that he didn't see that many roads in need of repair and explained that most of the roads in the City were not intended for the heavier vehicles (especially the bigger garbage trucks) that are used so much these days.

Noralea Gipner commented that she has served on oversight committees and their task was to ensure the money was spent properly, nothing else.

Seeing no further speakers, Mayor Schroder closed the public hearing.

Mayor Schroder said he would like to raise the tax increment to three-fourths of a percent, but was concerned that voters might not support it. He thought a half-percent was more feasible. He also explained that the reserve fund is necessary to protect City finances should another recession come.

Councilmember Ross said he did not think half or three-fourths of a percent (which comes to .50 on \$100 purchase) was too much to pay to help maintain roads. He commented on costs to be spent by the Metropolitan Transportation Commission (MTC) just to widen an overpass on the Highway 4/680 interchange. He was confident that the Martinez voters would support the proposed tax increase.

Councilmember DeLaney agreed that either increment would be reasonable, but thought the Council should stay with the lower amount as discussed at the last meeting. She was concerned about the expenditure plan identifying and naming specific roads for repair because it could create a false set of expectations. It would be best to refer to the measure as a "sales tax" measure rather than "transaction and use tax" measure. She also noted that Exhibit A refers to some of the duties of the Citizen Oversight Committee, which should be considered in the language for other related documents.

City Manager Kilger proposed clarifying language for Exhibit A and the title for the ballot measure itself (to replace "transaction and use tax"). Councilmember Ross suggested "improvement and maintenance" rather than "maintenance and improvement."

Mr. Kilger and Mr. Chandler proposed other changes to the language of the ordinance and supporting documents, to which the Council agreed.

Councilmember DeLaney said she would like some language in the resolution that will specify what the project prioritization process will include. Mayor Schroder agreed.

Mayor Schroder also commended staff for their work keeping up with the Council's preferences and suggestions for the ballot measure and supporting documents. He thanked them for their hard work.

Vice Mayor Avila Farias reiterated comments she made at the last meeting to educate the public regarding the need for the tax increment, especially given the current level of the City's road maintenance budget. She questioned whether the public could adequately understand even with the tax increase, the City's road maintenance budget would still be tight, and/or would be supportive in the future if more increases are needed.

Mr. Kilger discussed various scenarios considered by staff to address her concerns.

Councilmember DeLaney pointed out that it is not the sole responsibility of the City to maintain the streets/roads; the Contra Costa Transportation Authority is working on ways to bring additional resources for local streets/roads, and the State is considering options for the State transportation budget as well.

Mayor Schroder noted that he and Councilmember DeLaney met to review draft language for the argument in favor of the tax measure and directed staff to make revisions. The draft measure will be sent to the Council for review and will be discussed and considered for approval at the August 17th meeting.

Mr. Kilger added that the input from the Ad Hoc Committee and the Council as a whole will form the foundation for the information provided to the community regarding the ballot measure rationale, purpose, and function. He indicated work has already begun on an informational brochure that can be sent out to the electorate, with others potentially following.

Councilmember Ross acknowledged Councilmember DeLaney was correct that there might be additional resources in the future; however, at this point he felt it was important for the City to take the lead in attempting to solve the problem.

Vice Mayor Avila Farias agreed, expressing concern about transparency in the process. She was glad to hear the staff has been considering future actions as well.

Mr. Kilger reminded the Council that once the proposed measure is accepted for the ballot, neither staff nor the Council would be allowed to campaign for the measure; they can only provide materials informing the public of the need.

Councilmember Ross questioned whether the Councilmembers as individuals can advocate for the measure, as long as it's not done from the dais or as a group.

Senior Assistant City Attorney Nebb agreed, but she reminded him they also cannot use City resources for campaigning. She confirmed that as individual voters, they have the same rights as any other voters.

On motion by Mark Ross, Councilmember, seconded by Lara DeLaney, Councilmember, adopt Ordinance No. 1395 C.S. imposing a special tax for road maintenance and improvements as amended. Motion unanimously passed 4 - 0. Yes: Lara DeLaney, Councilmember; Mark Ross, Councilmember; AnaMarie Avila Farias, Vice Mayor; Rob Schroder, Mayor.

On motion by Lara DeLaney, Councilmember, seconded by Mark Ross, Councilmember, to approve Resolution No. 078-16 placing a measure approving such tax on the on the ballot at the November 8, 2016, election as amended. Motion unanimously passed 4 - 0. Yes: Lara DeLaney, Councilmember; Mark Ross, Councilmember; AnaMarie Avila Farias, Vice Mayor; Rob Schroder, Mayor.

On motion by Mark Ross, Councilmember, seconded by Lara DeLaney, Councilmember, to approve Resolution No. 079-16 authorizing the City Manager to amend the FY 2016-17 Budget with a budget transfer from Unassigned Fund Balance in the amount of \$50,000. Motion unanimously passed 4 - 0. Yes: Lara DeLaney, Councilmember; Mark Ross, Councilmember; AnaMarie Avila Farias, Vice Mayor; Rob Schroder, Mayor.

CHIEF OF POLICE

Item taken out of order

4. Council Subcommittee Reports.

As stated earlier, Mayor Schroder noted that he and Councilmember DeLaney met to review draft language for the argument in favor of the tax measure and directed staff to make revisions. The draft measure will be sent to the Council for review and will be discussed and considered for approval at the August 17th meeting.

2. Chief of Police Comment(s)/Update(s).

Chief Manjit Sappal reported on the National Night Out, noting it was nice to see the community come together and support themselves and the Police Department.

CITY MANAGER

3. City Manager Comment(s)/Update(s).

City Manager Brad Kilger stated that he went with the Police Chief to the National Night Out events and had a very good time. He was extremely impressed with the 12 venues. Mr. Kilger complimented Martinez for their support of their officers.

APPOINTMENTS TO COMMISSIONS AND/OR AGENCIES

CITY COUNCIL

5. City Council Comments.

Vice Mayor Avila Farias thanked staff for their work on the tax measure and expressed kudos to the Police Department and the community for a great job on National Night Out. She noted the event seems bigger and more impressive each year.

Councilmember Ross expressed congratulations to the community and the Police Department on National Night Out. He also expressed appreciation to the Chief for following up on an issue that was resolved in the Grandview area, and for reviewing the plans for escape routes, fire evacuation, and emergency contingency plans around the area of Hillside and Panoramic as the potential for fire could be very damaging.

Councilmember DeLaney thanked staff for their great work on the sales tax measure and for the excellent work on National Night Out. She offered special thanks to the Police Department for all the organizing efforts and especially for involving the Sherriff's Office, California Highway Patrol, and Contra Costa Consolidated Fire. She encouraged continuing support for the City's First Responders, including attendance at a "First Responders" event in the plaza in front of City Hall on September 6th from 6:00 p.m. to 7:00 p.m., which is the anniversary of the death of Sgt. Paul Starzyk.

Mayor Schroder commended the City Manager and staff, especially Mr. Chandler for putting the sales tax measure together.

ADJOURNMENT

Adjourned at 8:25 p.m. to an Adjourned Regular City Council Meeting August 17, 2016 at 7:00 p.m. in the Council Chambers, 525 Henrietta Street, Martinez California.

Approved by the City Council,



Rob Schroder, Mayor

Mercy G. Cabral, Deputy City Clerk – 9/7/16