

Special Meeting  
May 3, 2006  
Martinez, CA

## CALL TO ORDER

Mayor Schroder called the meeting to order at 5:30 p.m. with all members present except Councilmember Ross and vice Mayor DeLaney who were in a Pavement Management Subcommittee meeting. Both Councilmember Ross and Vice Mayor DeLaney arrived shortly after roll call.

PUBLIC COMMENT (comments are limited only to items listed on the agenda)

No comments made.

CLOSED SESSION (adjourn to City Manager's Office)

1. CONFERENCE WITH REAL LEGAL COUNSEL – ANTICIPATED LITIGATION  
Initiation of litigation pursuant to subdivision (c) of Section 54956.9 of the California Government Code: (One potential case).

## ADJORNMENT

Adjourned at 6:00 p.m. to a Regular Meeting on May 3, 2006 at 6:00 p.m. in the Council Chambers, 525 Henrietta Street, Martinez, California.

Regular Meeting  
May 3, 2006  
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## CLOSED SESSION

CONFERENCE WITH REAL PROPERTY NEGOTIATORS – pursuant to California Government Code Section 54956.8

Property: 7 North Court Street, Marina.  
Agency Negotiator: June Catalano, City Manager  
Jeff Walter, City Attorney  
Richard Pearson, Community Development Director  
Joann Tool, Deputy Director of Parks & Community Services.

Negotiating Parties: Rick Parker  
Under Negotiation: Price and Terms of Lease.

## RECONVENE – PLEDGE OF ALLEGIANCE – ROLL CALL

The meeting reconvened at 7:18 p.m. with all members present. Mayor Schroder reported that the Council met in closes session and gave directions to the City's legal counsel and property negotiators. Nothing else was reported.

## PRESENTATION(S)/PROCLAMATION(S)

Presentation of Certificate of Appreciation to Joe Novo (former Arts & Library) Commissioner).

Mr. Nova could not attend. Mayor Schroder read the certificate.

Proclamation proclaiming the week of May 12 to May 21, 2006 as "Affordable Housing Week"

Proclamation presented to Councilmember Kennedy. Councilmember Kennedy urged the public to learn more about affordable housing by reviewing the East Bay Housing Organization's website at [www.ebho.org](http://www.ebho.org) which lists several activities that will be happening during Affordable Housing Week and other information.

Presentation by Dianne Dunlap on process of nomination as a "Bike-Friendly City"

Councilmember Mark Ross indicated that Dianne was unable to attend and introduced Susan McCue, Economic Development Director, who thanked Ms. Dunlap for bringing the idea forward. Ms. McCue provided the information about the process for promoting Martinez as a cycling community and described the process for nomination as a "Bike-Friendly City." She indicated that Martinez is hoping to submit an application to be a "Bike-Friendly City" by March, 2007. The City will need to form a Bicycle Advisory Committee to assist with the application process. Ms. McCue introduced Robert Raburn.

Robert Raburn, Executive Director of the East Bay Bicycling Coalition, discussed ways to make Martinez a Bike-Friendly City. Mr. Raburn indicated that he believes that Martinez deserves to be designated as "Bike-Friendly City." He announced that May 18<sup>th</sup> is "Bike to Work Day."

Councilmember DeLaney asked Mr. Raburn how to promote Martinez as a Bike-Friendly City. Mr. Raburn suggested ways to promote Martinez including educating bicyclists and motorists, working with Public Works, and by advertising.

Dick Anderson stated he is member of the East Bay Bicycling Coalition. He described two bicycling events he had volunteered for. He recommended improving bike lanes and installing bike racks outside eating establishments. He also volunteered to be on the Bicycle Advisory Committee.

Mr. Frazer spoke on the recommendation of placing bicycle trails in rural areas as well as to include multi-use trails which would include other uses like horseback riding.

Another member of the East Bay Bicycling Coalition requested Martinez be an "Outdoor Sports Society."

## Presentation by BH Development – 630 Court Street Project

Mayor Schroder informed the public that the County of Contra Costa came to the City of Martinez to offer to sell 630 Court Street. Mayor Schroder gave a brief background on the project. He indicated that the Council decided to purchase the property and sell it to a prospective development company that could bring revenue to Martinez. He reviewed the first request for proposals and the second request which Council and staff narrowed down to BH Development. Mayor Schroder stated that this was not a done deal, but requested that the public and members of the Council have an open mind when listening to BH Development's presentation.

Brian Hirahara, President of BH Development, thanked the Council for their consideration of his company. He indicated that BH Development focuses on quality and sees this is an opportunity to potentially revitalize Martinez. Mr. Hirahara indicated that they have decided to demolish the existing building based on health and safety issues. The report from the structural engineer stated that he did not guarantee that the existing retrofitted building would not fall down under a major earthquake. Mr. Hirahara also indicated that there were economic issues to consider as well. He reviewed proposed designs to rebuild the building using the character of the existing building and reusing as much of the existing material as possible.

Vice Mayor DeLaney asked if BH Development had considered making a second story for apartment space. Mr. Hirahara explained the reasons this would not be possible and that it would not utilize the 3000 square feet to its best capacity.

Mr. Hirahara introduced Dave Johnson, architect with Johnson-Lyman Architects, who reviewed changes for the rehabilitation of the building. Councilmember Wainwright questioned Mr. Johnson on the difference of the retrofitting costs and constructing a new building.

Councilmember Janet Kennedy asked if there was a possibility of pushing the building out towards the sidewalk to increase the square footage of the structure. Mr. Johnson stated that was a possibility.

Vice Mayor Lara DeLaney asked Mr. Johnson about the time frame to design and start the project. Mr. Johnson stated that it would take approximately a year to begin construction and once construction begins, it should be completed in five to six months. He also stated that should a restaurant be the tenant of the building, a restaurant would have its own interior designer to complete the design inside the structure.

Matt Berties, of MBA Structural Engineers, Inc. reviewed technical steps in retrofitting unreinforced masonry buildings. Mr. Berties also reviewed the structural report for the building performed by the County in 1989, which indicated that it was in very poor condition. He explained the risks of buildings and earthquakes and brought attention to an article that was in the San Francisco Chronicle last week. He read parts of this article to the Council. Mr. Berties explained each part of the building and what would be required of each part. He discussed what would be required to retrofit walls. Mr. Berties explained that due to the building being heavy and narrow, retrofitting the building would add more weight. He explained the dry rot problem he found. He indicated that they had not finished reviewing the foundation which included a basement.

Councilmember Bill Wainwright asked Mr. Berties about the costs. Mr. Berties stated that he is not a cost estimator, but believes the costs outlined seem to be correct. He stated that the size of the building is an issue as well.

Councilmember Ross asked about the seismic construction regarding the neighboring building. Mr. Berties stated that he believed the two buildings are separate structures and believed the building can be taken down without affecting the neighboring building.

Vice Mayor DeLaney asked Mr. Berties if he had done retrofitting of a building similar to this building. Mr. Berties stated that he had, but not one this small. He reiterated that the size was a big issue. Retrofitting larger buildings is usually more cost effective than retrofitting small buildings.

Mayor Schroder commented as to his knowledge of retrofitting based on his experience in dealing with his office building in Walnut Creek. He reminded the public that the City is currently developing a URM Ordinance.

Mayor Schroder opened public discussion.

John Hoffer, local architect, indicated that he had looked at the building and stated that if it is as bad as the structural engineer states, then it does make sense to tear it down and rebuild. He indicated that the applicants should find out more on the basement to his knowledge it appeared that the basement was in the sphere of influence of the underlying street, utilities, and the walkway. Mr. Hoffer questioned why the building should only be a one story and not two stories. The second story can be designated as a mix use space for offices which would work in this building. He noted that the old red brick should not be used.

Mr. Turnbaugh spoke about the walls of the building. He agreed that the north wall needed to be replaced and the west wall had approximately an inch of separation from the east wall of the neighboring building. Should a sizeable earthquake happen, those two walls may collide.

David Fisher, resident of Martinez spoke on his personal knowledge of masonry buildings and retrofitting, as he owns three in downtown Vallejo. He stated his buildings are smaller and he had to cut down his space by retrofitting rather than tearing down and rebuilding. He believed that the building could be saved. He recommended getting rid of the basement to save costs. He believed that it is profitable to build a building inside a building.

Mr. Alford spoke on how attractive the building is and believed that the historical value of the building should be saved.

John Fuller spoke on his business in downtown Martinez and the risk of being in that building when the big earthquake hits in the next 30 years. He agreed with the developer in tearing down the building rather than retrofitting.

Kathy Parker spoke on the economics of the building and the costs of retrofitting versus demolition and rebuilding. She believed that this building will bring people to Martinez.

Carol Hatch spoke in favor of the proposed design and the developer's proposal to preserve the historic character of downtown Martinez.

Paul Wilson expressed his sadness in tearing down the building. He stated that there was a lot of competition already for diners in the downtown.

Julian Frazer spoke on the basement of the building and how a building in San Francisco was being retrofitted. He pointed out that we are currently sitting in a retrofitted building. He believed that the historic nature needs to be preserved.

Mayor Schroder indicated that it was his understanding that the basement would be filled in.

Councilmember Wainwright read on the history of the Sharkey Building.

Vice Mayor DeLaney commented on the historic nature of downtown. She believed it is a perfect blend of the old and the new.

Councilmember Kennedy commented on how lucky they are to be able to work with BH Development's members and stated how Johnson-Lyman's projects speak for themselves.

Councilmember Ross explained why the County did not want the building and how the plan is a good one.

Mayor Schroder read a statement from Joelle Fockler who was unable to attend tonight's meeting on the need to preserve the original looks of the building and keep the historical significance of this great little town.

***SECTION OF VERBATIM MINUTES ADDED:***

Presentation by BH Development – 630 Court Street Project

Brian Hirahara:

Thank you, good evening Mayor and Councilmembers. We're passing around some exhibits just because it is hard to see the poster boards. My name is Brian Hirahara, President of BH Development, based out of Walnut Creek. We are a retail development company that specializes in downtown projects, particularly we have been successful, active in downtown Walnut Creek and we have a project now in downtown old Pinole, similar to this location and we focus on creating pedestrian friendly streetscapes and focus on quality architecture, design and construction. First of all, I like to acknowledge this is a very important location, 630 Court Street and just thank the Council for their consideration of our company. We feel that this site is very important due to its location, across from the County offices, the Court House, etc. Basically, we look at it as a book end to the downtown, creating that end on the east end of downtown being very vital and we look at the opportunity here to potentially help revitalize downtown Martinez as a catalyst future retail in the area, successful retail. First I'd like to state that our proposal is to demolish the existing building which everyone here is probably aware. We did not take this decision lightly at all. We put a lot of thought, analysis, and consideration into that decision.

In downtown Walnut Creek alone of four projects that we developed, three of the four have been remodels, two of them have been with buildings that are around 100 or over 100 years old and another is a newer building that was a remodel as well and we have another building that we remodeled in Walnut Creek, but not in downtown. So, four of the five were remodels. We have also seismically retrofitted two buildings in Oakland, one on Piedmont Avenue, and one on Lakeshore Avenue, so we are very familiar with the URM buildings and retrofitting them. In our decision, probably the most critical part of our decision was the health and safety issue. We have provided a structural engineer report and we have Matt Berties here tonight who will speak, our structural engineer. But the bottom line for us was that with a retrofit of the building the report does state that the structural engineer can not guarantee that the building would not fall down in a major earthquake, so beyond the economic considerations of potentially losing a building that we remodeled, I have to be able to sleep at night and know that the tenants we are leasing to are in a safe situation and no matter what we do to the building that can not be guaranteed and that is a major consideration of ours. Of course there are economics involved, the building, due to its condition, especially having a basement would require extensive retrofit. We would have to bring the building to ADA compliance. It is a small building, so when people talk about large buildings that have been retrofitted. I was in San Jose today, looking at some projects down there and there were some very large buildings where they were preserving the exterior. The building was probably 150,000 square feet and that is a very different animal when you have 3000 square foot building. By the time we prop up the walls or have all of the additional structural and moment frames that Matt will get into, the net leasable area of the building goes down and at the end of the day you end up with a very expensive retrofit and a smaller leaseable area to make the economics work. There also again, Matt will go into, there are so many unknowns with the building that you don't find out until you actually get into the building, especially with a building like this. And in addition, to the retrofit costs as well as the ADA issues, you also have the fact of the interior of the building, I don't know if any of you have been inside of the building, but it is in pretty bad condition. There are walls that are broken into and ceiling tiles that are falling and actually bricks that look like they could fall on your head in the upstairs. It is actually scary. So on top of all of the other costs, you have to spend a considerable amount of money to get the building in a Class A condition and frankly the rents in downtown Martinez are such that they make it more of a challenge to make these things economical. On top of the health and safety and economic issues, an issue that we found out, that's why on Page 3, A-3 of your handout, actually in kind of reverse order but, you can see the top right picture is the north side of the building which is facing the water and there are some trash bins in that area, this looks to be in, in our opinion, the original brick of the building which is an old age red brick and we had this looked at by a reuse subcontractor that we use and he said that this probably the original brick. The mortar is very soft and he could actually scrape it with a key and the mortar will fall off and so this is on the north side of the building. I don't have a picture here, but the west side of the building, which is facing downtown, is also this type of material. Actually you can see the bottom right photo is the West side of the building which again is that original brick. When you come back to the front of the building which is the east side as well as the south side, it is a different brick. It is a yellowish brick that is a wire cut brick. It's a newer brick and in our subcontractor's opinion, probably 30 or 40 years old. It looks to be that the building was remodeled and this brick was added on to the face of the building. The mortar is very tight. He said that if you tried to remove the brick, it would have to be socket if you were to try to preserve those bricks. The upper right photo you can actually see it on one of the window sills that you have the red brick behind the yellow brick. The bottom two left photos are at the northeast

corner of the building as you can see there on the left side, you see the newer yellow wire cut brick and then on right side you can see the older, original red brick. So on top of the issues again of safety and economic, in our view the remodel of the building, a lot of the original integrity of the building was compromised. Not to say that it is not an attractive building, and again if we could save the structure that would be our first choice. So our proposal is rebuild a new building that would in keeping with the character of downtown Martinez. We are actually in the process of studying actually in the demo of the building to reuse the existing red brick. We did an extensive inspection of the building, not only is the brick on the this north and west side of the building, it is also inside some of the interior walls and again even on the east wall underneath of the window sill you can see some brick, so our subcontractor felt that there was enough brick to reuse that in the remodel. So how we look at it, and personally I like the red brick, that is much more keeping with the older red brick buildings downtown. Not that there is anything wrong with the yellow bricks, but it has more of the character that is typical in this area. So our thought would be to use that brick in the remodel. We would also look into reusing as much of the materials in the existing building. This subcontractor is working on a building in downtown Walnut Creek, across from City Hall, where they are reusing materials in that project as well, so that is our goal to reuse as much as the lumber in the new building. Also we would like to pay homage to the heritage of the building and with the permission of the family, use the Sharkey name in the name of the building, having a plaque commemorating the significance of the building. We would be using a tall, one-story building to maximize the retail viability of the site. We are working with Pacific Bay Coffee Company as our proposed tenant for the corner key space. We actually have John Laird, of Pacific Bay, here to tonight. If you have any questions, they are a one store independent business in Walnut Creek. They have been very successful. They would have food in there as a major part of their business plan which we think would be very good for this location. They would also have outdoor seating on the corner, which we think would be a very positive impact in bringing activity and visibility to the location. If there are any questions, I will be willing to answer them. If not, I would like to introduce Dave Johnson of Johnson-Lyman Architects.

*Vice Mayor DeLaney:*

*Mr. Hirahara there has been a question as if you are going to take the building down; and you are going to make it one-story. Was there any consideration to trying to densify, adding some residential were we can in the downtown where it is appropriate and there has been questions why this would be just one-story. Couldn't you add another story, maybe putting a residential apartment/penthouse, whatever, on the top. Was there consideration given to that?*

Brian Hirahara:

We are still open to that. The challenge with that is we're building, frankly a very expensive building. Whether it is the actual used brick or aged appearance brick, we are also using wood store fronts and windows which we think is keeping with the brick. It is going to be high end material that we plan to carry throughout the architecture. I forgot to mention, we plan to reuse the existing tiles as well. To give it a good presence on the street, it is going to be a tall, one-story building, similar to what McDonalds is across the street. So, one factor is that by going with a second story, it is again, a very small building, 3000 square feet. By the time we have a real lobby for the second floor, a secondary exit, etc., we start getting down from 3000 square feet down to 2500, 2400, somewhere in that range and how we look at it is that it is nice to have

a second family, but how many bodies are actually up there and maybe it's a handful. Whereas in a retail business where you maximize the floor area and you get activity from those businesses, and in my mind, you generate more activity by the mix-use. Mix-use is generally for larger projects which is more effective if you can get 50 people or 30 people or 100 people in a building. We are still open to that idea, but generally we want to maximize the success of the retail because we think that is very important here. So that is the thought behind that and frankly the retail rents are not that high and office is obviously lower as typical in their gross rents. So in spending the money in the building, it makes it more challenging economically to make the second story work. One other factor is by creating the taller one-story building, we have the ability to have taller ceiling heights and presence in the retail versus anytime you start stacking it up on a small site, then our retail instead of being something like 14 feet high or 12, might be something more like 10 and just doesn't have that same presence that you are looking for in a good retail location.

*Vice Mayor DeLaney:*

*I wanted to ask one more clarifying comment. You have done retrofits of 100 year old or older buildings of unreinforced masonry in other communities and yet you have looked at this one and you have determined that this would not be the best option here and that's because of the combination of the structural issues with the economics, correct?*

Brian Hirahara:

Those are larger buildings and they did not have basements like this one and Matt has more information and the specifics, but there are several challenges in particular with this building, with the lack of infrastructure, and lack of structure from a retrofit stand point. And again, the size is a huge factor, for 3000 square, your base costs are so high, it is very challenging.

*Councilmember Ross:*

*The Harris Street Bistro in Pinole is that what area you worked in?*

Brian Hirahara:

We actually are working on the site next door to that on the corner which is about ½ block away from there.

Dave Johnson:

Good evening Mayor and Council, my name is Dave Johnson, with Johnson-Lyman Architects and I am also a proud 20 year resident of Martinez. I can't tell you how excited I am to finally be involved in a project in downtown Martinez. A few years ago I was on the Martinez Main Street Organization, which you know is dedicated to improving downtown, and I was very passionate at that time to find any building to help renovate and bring people downtown, and I can't think of a better project that this one, right in the heart of downtown to begin that revitalization.

While the existing building is obviously structurally and seismically unsound and pretty bad state of repair, the context of the building should still fit into the fabric of downtown. The scale of the building is about 23 feet tall and the existing building is 26 or so, so we are trying to keep within that framework of context. The new building, as Brian pointed out, whether or not we reuse the brick, obviously it is very important to create that brick statement and the detailing. We are trying to recall the decorative coreness that is there right now, it is terracotta, a very nice coreness. We will be reusing the ceramic tiles that are out there and there is some terracotta tiles which are a really nice accent on the building that we definitely want to recall. Along with that old treatment, we are also going to introduce new wood floor fronts, new fabric awnings, metal canopies projecting out from the building, new signs obviously and decorative lighting all helping to break down the building and create a nice pedestrian scale of the building.

I can also assure you that because this is in my backyard, I will make every effort to make this one of the most beautiful buildings in the downtown. I would also like to add that having two teenage daughters, it would be nice instead of having them to go to Pleasant Hill or to Walnut Creek that they finally have a reason to go downtown and I hope that with this building it can be a catalyst to create that renaissance if you will for Martinez. So with that, I will be happy to answer any questions, but I can't wait to get started and begin to revitalize.

*Councilmember Ross:*

*About the seismic issues regarding the adjoining building, can you share with us the difficulties in seismically retrofitting an existing building with an unreinforced building right next to you and if this building is torn down, how do you keep an unreinforced building afloat. Can you just enlighten us on this?*

*Councilmember Wainwright:*

*Thank you for being with us, I always wondered what you looked like. I am wondering about the difference in costs. Maybe your associate or your structural engineer may be better able to answer this, but the difference in costs what is being proposed and saving the facade and building a complete new building inside versus seismically retrofitting the existing building.*

David Johnson:

I think the Brian should answer that, but I know the costs of retrofitting it would just totally make the project uneconomical, but Brian can add further to that issue.

*Councilmember Wainwright:*

*Has anyone done any analysis on what the differences would be in terms of costs?*

David Johnson:

Well again, Brian maybe can answer that, but I know he went through a performa process to retrofit the building and to upgrade it just would not work in his performa. So, I don't know what more I can add to that.

Brian Hirahara:

Yes, our analysis was obviously rough numbers; it was in the \$500,000.00 to \$700,000.00 just for the retrofit costs and ADA. By the time we do in the interior remodel it was well over a million dollars. I think that, and Matt can speak to this, the big question mark though to a building like this is you, it is very, very challenging to estimate without knowing what actual issues are in the basement and again Matt will discuss. I want to say it is like throwing a dart, but it's very inexact science because of the challenges of the building.

*Councilmember Wainwright:*

*So verses proposing a new building as you are proposing and seismically retrofitting completely, forget about the part about throwing a dart, what's the difference in costs?*

Brian Hirahara:

Again if I had to guess, just hard costs, I would say it could easily be a half million dollars.

*Councilmember Wainwright:*

*What about the other alternative to leave the existing facade in place and to completely rebuild the inside.*

Dave Johnson:

That's what, again Matt can go into more detail, but that's what we basically have to do. To save the building, you would be basically building a building within the building. Again Matt can elaborate on the specifics of that, but to keep those walls up you have to construct walls within them, frames, etc. So there are nuances that he can go into, but it is almost like you are building another building within the building.

*Councilmember Wainwright:*

*Okay, what you just described as a seismic retrofit would essentially remove everything that is inside the facade.*

Brian Hirahara:

Why don't we have Matt go into this. I know we have Councilmembers that have questions for the architect. So maybe we can into the retrofitting and the engineering after we finish with Mr. Johnson.

*Councilmember Kennedy:*

*Dave, I wanted to know, and I know I asked Brian this question also, was there ever any consideration for moving the building, the 3000 square feet seems fairly small, to bumping it out towards the sidewalk. There is that crazy parking right there and if we switched it to just parallel parking.*

Dave Johnson:

I think that is a great idea, but unfortunately Brian had sent me up some drawings from the City, but they weren't detailed enough to explore that, but we are all over that if the City is willing to dedicate some property. Right now we are on the right-a-way lines, so to go on to the public sidewalk, we need to have it dedicated.

*Councilmember Kennedy:*

*I always thought that the possibility of pushing it out more and giving it more room and presence was a good idea, but that's just mine.*

Dave Johnson:

I love that idea, but for right now, we do intend to create a nice plaza area, to really increase that area for a nice gathering space.

*Vice Mayor DeLaney:*

*Two questions. I don't think Brian has discussed the time frame yet, but how long do you think it will take to design and see the start of construction on this project.*

Dave Johnson:

We will start tomorrow and I would guess getting through the entitlement phase, 4, 6 months and working drawings would probably be a total of four months. About a year from now, construction and the construction period probably would be about 5 to 6 months.

*Vice Mayor DeLaney: One other question. Has your firm actually worked on the architectural drawings before, have you done restaurants?*

Dave Johnson:

We would most likely not be doing the interior, we typically, a lot of our work is more the shell of a building, exterior, core, the elevators, but most likely if there is a restaurant, they would have their own interior architect who would design that.

*Vice Mayor DeLaney:*

*I guess what my question was really going to be is. As the building is currently, how useful is the current layout and design for a modern restaurant, the kind of high quality restaurant we are kind of looking to attract. Is it suitable, the interior, the kind that would accommodate a restaurant, the kind we are looking for.*

Dave Johnson:

I would certainly say that with a more modern restaurant, the ceiling would have to be actually much higher than they are now. I think they are barely 10 feet, if that much. So, I doubt that would happen there, well the second floor would have to be, may be cut back for a nice mesmerizing entry that would interact with the second floor. But as far as right now, I could not tell you what restaurants would be attracted to that.

*Mayor Schroder: Seeing no further questions of the architect, thank you very much Dave.*

Matt Berties:

Good evening. First of all it is generally very dangerous to ask an architect questions about seismic design. I would try to avoid them in the future if I were you. My name is Matt Berties. I am a constructional engineer here in Walnut Creek, the Bay Area. I have been in practice for 20 years. My practice has been mostly in commercial and retail design and I certainly have dealt with my fair share of URM buildings over the years. I will start by, well I think the general question in all of your minds is, “why aren’t retrofitting this building, what would take to retrofit the building?”

I want to back to up and give you a little bit about my history with the project. I first visited the site in July of 2004, and I think it was of a different party and maybe what you have spoke of Mr. Schroder that there was some transition trying to find the right party to get involved with the project. At that time I did visit the building and did a quick walk through and as a structural engineer, I was quite anxious to get myself out of the building. I don’t mean to sound mellow dramatic or overly dramatic, not from an immediate danger point of view, but that there were a lot of things that were immediate apparent to me as a structural engineer that would have to be addressed for this building if any sort of redevelopment of that particular building was going to happen. It just rubbed me wrong from the get go and I want to expand on that a little bit. So I did my walk through and I was presented with my report at the time that had been written by Paul Fertessa. Paul is another structural engineer and coincidental I had worked for him when I started my career. Paul was head of the seismic safety commission at one point in California and this report was apparently from June of 1989. It was authorized by the County to rate the buildings the County held at that time and one was that at 630 Court Street. Paul’s report, he classified the building as very poor as a structural system and this is based what was then, the University of California’s seismic performance rating system. The very poor definition, again through the University of California’s system, and I will read this to you:

“Very poor seismic performance rating would apply to buildings and other structures whose performance during a major seismic disturbance is anticipated to result in extensive structural and non-structural damage, potential structural collapse and/or falling hazards that would represent high life hazards.”

Now this is clearly a URM building, and I think people are generally familiar with the hazards that exist with URM buildings. Unfortunately, when we have earthquakes, like 1989 Loma Prieta, the people who die, are the people in unretrofit URM buildings. That’s a fact of life here. We have talked a little bit and people have talked about retrofits and I am perhaps going to bore you here a little bit. One of the questions when you are talking about retrofits is to what standard do you retrofit your buildings to. When I design a building today, a new building, I design to the

current building code. The intent of the current building code is to promote life safety in a major earthquake. You don't want the building to collapse on somebody and moderate and small earthquakes hopefully there is not too much damage. There is nothing to say that in a major earthquake, in a building that we design brand new today, could be re-occupiable. It may be so damaged, you may not be able to go back into it. I don't think people necessarily understand that. I think that people understand that it is earthquake proof, and that is not necessary the case. Even for a brand new building, that's the level up here, URM's are the level down here. They are as bad as you get in California and the policy makers have decided that the hazards here are so great, we need to do something about this. We can not live with the risk of public safety with this sort of building and in various jurisdictions you have URM ordinances adopted to promote safety. It is by no means to get you anywhere near a current code requirement. It really is to mitigate the extreme hazards that exist with URM buildings. Why didn't people when they developed these policies say, "Why don't we go to current building codes?" Because it is really impractical to do so. The hazards are so great, again this is a matter of public policy, but this may be useful for you to consider future URM buildings. It is so difficult to give you the same level of performance you get out of a new building that people decided that you just can't do that. You can't hold the owners to that standard because it is just not economically feasible. Again, we also recognize there are buildings that we want to preserve the character, we want to preserve the building stock, so I think the URM ordinances are sort a stop gap measure to sort of feel that voice saying, hey we recognize these buildings are dangerous and we are going to retrofit these buildings to eliminate the most extreme hazards. But again, it does not mean by any stretch of the imagination, that they are coming to the levels of that of a new building. Buildings, and I actually have an article here that I brought copies, and I am going to pass them out. This is, coincidentally I have, my wife's uncle lives in San Francisco, a 90 year old man, and they were visiting and my wife brought this newspaper back to me last week coincidentally and it had this article which is appropriate to what we are talking about. Really I want to draw your attention to the box in the middle which is how much this costs. Mr. Wainwright you had some questions about costs, and there are some numbers there and maybe you can read this later. But there are a couple of quotes from Lawrence Cornfield who is a chief building inspector in San Francisco and I want to read those:

"The standard of retrofitting is not really a property protection standard, but it is really a life saving standard. It is hard to tell you the value of retrofitting verses the value of life" Goes on with some of the costs involved in retrofitting and Mr. Cornfield concludes and he says, "We suspect that many of these buildings that are retrofitted are still hazardous."

And that makes sense, we are not trying to be current code, we are trying to mitigate some of the hazards. It does not remove all of the hazards. So when I talk to an owner or a developer and we talk about buildings and people say "oh we want to upgrade our building." All I say to them is "what standard, to what level, what is your level of risks, what are you willing to assume?" And when we work on URM buildings we say well we can do the URM ordinances, it does not mean your building is not going to have severe problems, it may have partial collapse. We are trying to mitigate those hazards. So for this particular building, I will quickly give you a little bit of the technical. These would almost apply to any URM building. These are things that I would consider as a structural engineer the steps that you would start to take to mitigate some of the URM hazards. Again, this is not necessarily up to current codes, these are the elements that we think of. Seismic loads on buildings are based on the weight of the building and on an URM, the brick walls are extremely heavy. So the first thing that you do for URM retrofits is you

anchor the walls to the roofs and to the floors. You also can strengthen the floors, one you deliver that load onto the floors and roofs, you have to strengthen them; otherwise, they will just fall apart. So like is this building we would consider overlaying the roof and the floors with plywood. There are no ties around the perimeter around the building as we would have in a modern building, so we would want to install continuous steel framing under wood ledgers under the perimeter of the walls to hold the building together. We would anchor, again, the floors to the roofs. We would have to install vertical strong backs to the wall to prevent them from literally collapsing. You can actually bolt steel pieces to the wall, to grab the wall, to hold it in place. The brick walls really are of next to no structural value to us, they are literally only hazards. In some cases, you can use them to resist enplane share loads, but that may be the case on 2 of the 4 walls on this building, but on the East wall and South wall, where you have all the windows and doors, even the amount of brick there, is not enough to resist the enplane share loads. You would have to re-work the mortar on the brick walls. In this particular building, we have an interior brick wall which has been compromised. There have been remodels done in the past, they cut holes in it. Paul mentioned it in his report that the integrity of the wall itself, even today, as the exist, vertical loads may have been compromised. I mentioned the South wall of the building and with all the doors and windows, because there is not enough brick to resist enplane shear loads, you would have to install some sort of steel frame or steel moment frame and as Brian had mentioned this building has a crawl space and a basement and doing that just adds another level of complexity where you take these elements ultimately down to the foundation.

There is another way to retrofit walls is to actually install concrete on the inside. You actually come in and put in a concrete wall, reinforced that basically becomes a structural wall and you attach the brick wall basically then to the concrete wall as just a veneer, so you are just actually anchoring that.

Again, the major problem with this building structurally, given the URM hazard and the weight, is the size of the building. It is very heavy and very narrow and that creates special problems. So adding concrete or shockcrete walls to strengthen the URM is just making the problem worse. You are adding more weight, you helping one direction, but making it worse in the other direction. You would have to consider both directions for seismic events. We have the same problem on the South. I think the South wall, as it exists, there is no seismic bracing there. I think the East wall, when they originally built the building, thought that the brick would probably do the work, but there is nothing whatsoever resisting seismic forces on the South wall right now, the store front and there again we would have to have some sort of steel frame introduced into the building; and again, when we were in basement and crawl space, there all sorts of damage to the wood frame that exists. A lot of dry rot damage we could see by shining the flashlights, were in really poor condition and walking around on the second floor was very bouncy. We saw evidence of damage. The wood framing in this building actually bares in pockets in the brick which is bad news. It traps moisture and you tend to have a lot of rotting of the joists and roof framing. Actually all the things I pretty much mentioned happen commonly in your retrofits. Again what makes this building even worse is primarily the small size of the building, primarily the east restoration, and the heavy URM walls. This is a big problem. Just introduces huge seismic forces and we have to do all sort of interior sheer walls to resist those loads.

The basement and the crawl space, we do not know anything that is going on with the foundation elements to even begin to contemplate putting in steel frames or shockcrete walls or what have you. There would have to be an extensive exploration program to tell you what is going on with the foundation. As an engineer, I am a control freak, and I want to provide good advice to my clients and I want to know what is going on and we do not know what is going on with the foundation of this building. There is some signs of seismic cracking and settlement in the walls and if we are going to start to add retrofit to even begin to know what we have to do, we have to take another step first and that is a huge testing program and I frankly not even sure how you would even do that. Most URM, or frequent URM's have slabs on gray, you can assume there are spread footings. It is pretty easy to bolt the steel on, tie the walls down, but here again with the crawl space, we have another special problem.

I spoke about the pocketing in the framing of the wall that sets a problem, again, for rot conditions. I expect that if you try to retrofit this building, you would in essence rebuild the building. In essence you would probably have to replace all of the roof and floor framing and then try to manage somehow to deal with the URM walls. A lack of the solid walls on the East and South sides are a problem. Generally, I think the structure is in poor condition.

And the final problem, and somebody else eluded this, is that you do have the adjacent building along the West side. These buildings are back to back and if we were building these buildings today, we would have a seismic separation and nothing you can do retrofit wise to prevent these buildings from banging into each other, aside from separating them, and that's a problem. If you have any building banging into each other, you have a potential collapse hazard and if you have a URM building, it is just all the more worse and that is a real hazard and the only way to eliminate that to literally make a separation. So I think the West wall would need to be moved one way or the other as a starting point. So that is kind of my perspective.

*Councilmember Wainwright:*

*Can we now get your assessment of the difference in costs between the various scenarios we went over.*

Matt Berties:

I am not a cost estimator and I tell my clients I should become a cost estimator, but I don't have the expertise. I really talk to you about what it would take, here are the steps we would take and I let other people deal with the cost numbers. With my experience, I think the numbers that Mr. Hirahara mentioned seem appropriate. Often times we are faced with remodels of owners of having these ideas of that "we can save this building", it's a major way to save money to reuse what is there and we do not want to build from new. We find ourselves in the position of saying "no", really the best thing for you to do is to take that out and replace it and don't try to save what is here. That is certainly the case that is going on here. I have no doubt, just based on my experience it would be potentially cheaper just to build a new building than it would be to try to retrofit this building. I think there is some discussion of costs in the article I gave you that talk about some of the numbers and I even think some of those costs would be low for this building because of the square footage, it is a small building and you have big problems in a small building. I think it would be very expensive to mitigate the hazards that are associated with this building.

*Councilmember Wainwright:*

*So a large part of your analysis is based on the size of the building as well as the condition, but the size. If you go down to Powell Street in San Francisco and you look at that huge building that H&M is going to occupy and it is essentially a few months ago, you could look straight through the hole of the building. They just left the façade up standing and rebuilt a whole new building inside and that is what they are doing right now.*

Matt Berties:

Right, that's because of the size of the building, and I am sure the square foot costs would be significantly lower than for something like this.

*Councilmember Ross:*

*The adjoining building which you spoke about to the West, you kind of answered my question to some degree. You said you would have to have a seismic separation between the supposedly new building and the existing building to the West. What steps are you going to have to take, during construction, are you going to have to take extra measures with the other building while you are doing the construction. When you pull this building away are you going to have to brace the other building?*

Matt Berties:

Well, I don't think the buildings are tied together. You would want to look into that, I think in fact that they are separate buildings, just adjacent to one another. So theoretically, you can take this building down and not affect that building. I mean there is also the issue of the basement of this building. Then again, I have only seen this building once, so I do not know the relative levels, like floor levels inside and outside and this is something that definitely has to be addressed. I think the concept is that you can take this building down without affecting the other building and put in new foundations that are six inches away from the other building to give you the required seismic separation.

*Councilmember Ross:*

*This building would have enough seismic separation that it would stand, but not knock the other one down?*

Matt Berties:

Right, if the other building was a URM, we would be worried about that building falling and being next to our building at that point.

*Vice Mayor DeLaney:*

*Mr. Berties, have you or your firm worked or done a retrofit project on a building like this before?*

Matt Berties:

Not this small, but we have done other URM buildings doing retrofits and doing exactly what I talked about, adding the wall to roof anchors, overlaying roofs and adding all the necessary ties.

*Vice Mayor DeLaney:*

*I was going to ask my next question, what would be the distinction in quality of the original buildings between this and buildings that you have retrofitted. If the distinction is more related to size rather than the quality of the originals?*

Matt Berties:

The quality is similar. I was disturbed here more by what I saw in the crawl space and the quality of the framing. You know the other buildings that I retrofit, I do not recall having the same concerns about. What you're starting with, you know, here's what we are going to add and then we start doing are normal tying things together. Here I think you would have another hurdle to get to that point, to get to the same starting point. But again, size is a big difference here; again, it is all about the weight of the building. This building weighs a lot for its square footage. It is the same topic, why you can retrofit bigger buildings more cost effectively, because you are only affecting a small area of the building in essence. Here your whole building is impacted and there is no way around it.

*Vice Mayor DeLaney:*

*Okay, we have heard undoubtedly that this building isn't really a great structural marvel.*

Matt Berties:

It's not, I would agree with that.

*Mayor Schroder:*

*Well thank you Mr. Berties, I thank you for enlightening us of the engineering portion. I have some experience with unreinforced masonry buildings. I happen to own one in Walnut Creek and when we bought the building in the early 80's, we were required to retrofit it to a certain degree, I couldn't tell you to what degree that was. We were then required to retrofit again after the 1989 earthquake, which we completed in 1992, and I can tell you we paid more for the retrofit than we did for the building and we only had to bring it up to a certain degree. The City of Walnut Creek does have a mandatory URM ordinance and they have different degrees of bracing, depending upon the occupancy and in my office I have six people. If I was going to put a restaurant in that building, the City of Walnut Creek would require additional bracing because of the added public presence of people, possibly hundreds of people being in the building and I just wanted to let everyone know and to remind them that we are currently working on an URM ordinance and there are so many challenges with the buildings in the downtown and that one of the biggest parts with it is the buildings are so small, there is not much to work with. We are*

*trying to craft an ordinance that is going to work for the building owners and also to help save some lives in the next earthquake, because that is our biggest responsibility I believe.*

\* Council recessed.

**PUBLIC COMMENT (COMPLETE SPEAKER CARD AND GIVE TO CLERK)**

*Reserved only for those requesting to speak on items not listed on the Agenda.*

Kristin Henderson spoke on her attendance at the California Preservation Foundation Conference “Finding Common Ground” and provided information to the Council which she learned about historic preservation. She thanks Councilmember Kennedy for supporting low-income housing.

David Piersall requested to know what concessions were made to the County regarding the DA Building that had a financial impact. Ms. Catalano indicated that it was a combination of fee waivers and some changes to the paving that is around the building. All together it is about \$100,000.

Rich Verrilli questioned the three-minute public speaking time limit. Mayor Schroder explained why the time was changed from five minutes to three minutes due to lengthy meetings.

Julian Frazer spoke on the Schwab Tire building stating that the Council promised a nice building which the residents did not receive. He urged the Council not to make any promises they can't keep. He recommended that somebody on the Council make a motion for reconsideration regarding the Marina Lease vote. Mr. Frazer indicated that he was embarrassed for the City because it looked like the Council and staff was not prepared and suggested that important issues be discussed in regular meeting not held in special meetings. Vice Mayor DeLaney commented that the Schwab Tire building is a nice building.

Mike Alford spoke on the Marina lease and issues from the last meeting.

Paul Wilson spoke on the Shell incident of November 8<sup>th</sup>. He requested to know and urged the Council to inform the citizens of Martinez as to what chemicals were released.

Councilmember Wainwright commented on the fact that this issue has been on the agenda for two weeks now.

Mayor Schroder stated that the report was not ready to be submitted by the committee as yet and will be coming before the Council at a later date.

**CONSENT CALENDAR**

**MOTION WAIVING READING OF TEXT OF ALL RESOLUTIONS AND ORDINANCES.**

Motion waiving.

1. Motion approving the City Council Minutes of April 5, 2006.

[M.Cabral]

2. Motion rejecting Claims against the city by Darel Britt, Jr., #06-11. [J.Catalano]
3. Motion approving Cash and Investment Summary and Revenue and Expenditure Summary of March 2006. [C.Heater/2.1.0]
4. Motion approving Check Reconciliation Register dated 04/20/06. [C.Heater/2.1.0]

Mayor Schroder opened public comment on Items #1-4.

Julian Frazer commented on the procedure for calling items under the Consent Calendar. He indicated an error in the minutes and asked for clarification of the amendments. He clarified his comments regarding redevelopment stating eminent domain is not the only issue—it's the money taken from other agencies.

Councilmember Wainwright asked Mr. Frazer if he could refer to the page number and paragraph in the minutes. His response was not heard.

There being no further comments, Mayor Schroder closed public discussion.

On motion of M. Ross, seconded by J. Kennedy, the Council unanimously approved Items 1 through 4 of the Consent Calendar.

5. Resolution supporting the Contra Costa Community College District Facilities Bond Measure A. [M.Cabral/40.10.01]

Mayor Schroder opened public comments on Item 5.

Sheila Grilli requested Council's support on Measure A that will be on the ballot on June 6<sup>th</sup>. Ms. Grilli indicated that the total bond is for \$368,500,000. It will account for a tax increase of 85 to 90 cents per \$100,000 assessed evaluation on your property. Ms. Grilli stated that the bond will seismically upgrade the facilities and expand all the facilities.

Mayor Schroder acknowledged his support for Measure A.

Councilmember Ross stated as someone who served on the Bond Oversight Committee from the previous bond measure that was one of the most efficient uses of bond measure money.

Councilmember Wainwright indicated that Diablo Valley College is an important factor in Martinez and serves our community well.

Councilmember Kennedy expressed her support for the bond measure. She indicated that the only way she could afford college was going through the Junior College system and then transfer. She further indicated that Contra Costa County was very fortunate in having three campuses with such dedicated staff.

Ms. Grilli stated that in addition to three campuses, the district will be opening a new facility in San Ramon and in Brentwood.

There being no further comments, Mayor Schroder closed public discussion.

On motion of M. Ross, seconded B. Wainwright, the Council unanimously approved Item 5, Resolution No. 036-09 of the Consent Calendar.

6. Resolution authorizing destruction of City claims pertaining to the City Clerk's Office.

Councilmember Wainwright asked about destroying claims that were denied. He questioned if the records should be offered to the other parties. City Attorney Jeff Walter said they should not be offered due to liability exposure.

Mayor Schroder opened public discussion; seeing no one, Mayor Schroder closed public discussion.

On motion J. Kennedy, seconded by L. DeLaney, the Council unanimously approved Item 6, Resolution No. 037-06 of the Consent Calendar.

7. Resolution authorizing the City Manager to submit an application to the California Housing Finance Agency for Housing Enabled by Local Partnerships (HELP) funds to develop and implement an affordable housing program. [A.Lopez/9.13.02.01]

Councilmember Kennedy recognized Albert Lopez, Deputy Community Development Director for putting together a great application. This is a program that could offer the City an

opportunity to provide some affordable housing incentives by getting money from the State and use the MMC program along with loans from the City to offer people the opportunity to be first-time homebuyers in the downtown area.

Councilmember Wainwright clarified the application process. He asked what happens if the funds are not paid back by the homeowner. Mr. Lopez said that the City could foreclose on the property--just as if the money was loaned from a bank. Councilmember Wainwright confirmed that the loans would be serviced through Contra Costa County Community Development Department.

Vice Mayor DeLaney asked if an RFP would be done to obtain financial partners to help service these loans. Mr. Lopez said there is only two weeks left so an RFP would not work. He is still searching for a loan servicing company. Mr. Lopez indicated that a non-profit agency may do this for a small fee but there is still work that needs to be done.

Mayor Schroder opened public discussion.

Julian Frazer indicated that this was a good idea. He stated that there was a statement in the Housing Element that said something to this effect. Whether or not housing happens or not, there is no significant impact of housing needs in Martinez or in the region.

Mr. Piersall commented on the risk the City would be taking by coming up with additional funds to make up for loan losses in case of foreclosure. He urged the City to set aside some funds to make up for these losses.

Paul Wilson questioned the location of the low-income housing and asked if it was limited to downtown residents only.

Councilmember Kennedy clarified that the County designated the area, but it is open to low-income people and assists them with becoming a homebuyer.

Vice Mayor DeLaney commented that the downtown is the targeted area.

Mike Alford expressed his concern for bringing in more low-income residents to Martinez. He commented that Martinez already has many low-income residents and that bringing in more would make Martinez a “ghetto.”

Councilmember Ross commented on how this program is a down payment system to assist people to own homes. He said for example the money would be given out in \$50,000 payments to assist low-income people with the down payment to become home owners.

There being no further speakers, Mayor Schroder closed public discussion.

Councilmember Wainwright asked Mr. Piersall about loan loss reserve and what percentage of the \$500,000 should the City put away. Mr. Piersall recommended 10 percent.

On motion of Councilmember J. Kennedy, seconded by L. DeLaney, the Council unanimously approved Item 7, Resolution No. 038-06 of the Consent Calendar.

8. Resolution accepting bids for the Waterfront Road Open Space Project and awarding the construction to Fanfa, Inc. in an amount of \$143,925.96. [T.Tucker/12.04.37]

Councilmember Wainwright questioned the cease and desist order and asked what this contract would actually do.

Mr. Pearson explained how an environmental group, Bay Keepers and BCDC sued the City and alleged that a tenant, Martinez Auto Dismantlers, was contaminating the bay. The City settled by agreeing to remove the tenants and build a passive park. This contract proposes to build a trail program.

Mayor Schroder opened public discussion.

Paul Wilson commented on the items that were being deleted from the contract. He indicated that every time there is a project, staff’s estimates are 20 to 25% under the actual costs. He suggested that staff add 20 to 25% to all their cost estimates.

There being no further comments, Mayor Schroder closed public discussion.

On motion of L. DeLaney, seconded by J. Kennedy the Council unanimously approved Item #8, No. 039-06 of the consent calendar.

Mayor Schroder indicated that he will be pulling Item 13, Council Policies and Procedures, out of order and discussing it first since this item had been continued the longest.

#### CITY COUNCIL

13. A. Resolution approving adoption of the City Council Policies and Procedures; and
- B. Resolution rescinding Resolution No. 55-95 Establishing a Travel and Meeting Policy; and
- C. Introduction of Ordinance amending Title 2 of the Martinez Municipal Code, Section 2.08.030, Quorum and Majority Vote. (Continued from the April 5<sup>th</sup> meeting)

Mayor Schroder reviewed the work of the Subcommittee for at least three years and how it went to Council and back to the Subcommittee, and that Councilmember Wainwright added to the Policies and Procedures which were incorporated into this document. Mayor Schroder indicated he wanted to memorialize the unwritten policies and procedures that the Council has been following for many, many years. He indicated that under the former Mayor Mike Menesini things were done without any written procedures. When the new Council came in, some of the members began asking questions as to why things were done a certain way and where was it stated. He further indicated that the policies attempt to comply with the new State Law AB1234. City Manager June Catalano added that minor changes have been made by the City Attorney and copies have been made available. City Attorney Walter reviewed the changes and stated that most of the changes are formatting.

Mayor Schroder commented that on Page 10 the “S” on Public Comments needs to be omitted as it should read Public Comment. Councilmember Kennedy also pointed out this needs to be taken off further down the page as well.

Vice Mayor DeLaney asked the City Attorney why there are differing forms – Resolutions and Ordinances for adoption of the Policies and Procedures. City Attorney explained the differences.

Mayor Schroder opened public discussion.

Rich Verrilli indicated that the document places a great deal of power with the Mayor. He noticed that the Mayor appoints the Vice Mayor which he believes it should be a rotated position among the Councilmembers. He also indicated that nominations of commissions/committees which are appointed by the Mayor should be shared by the Mayor and Vice Mayor. He noticed that the Mayor reserves the right to have complete control over the agenda. He believed it would be more reasonable for any two Councilmembers to put something in writing to be placed on the agenda. Mr. Verrilli commented on the Appeals section and questioned the intent of a tied vote on permits and applications, having the legal effect of denying the permit or application. He further commented on the 3-minute rule and that it should be kept at 5 minutes.

Mayor Schroder clarified some of Mr. Verrilli comments regarding appointments. The Mayor controlling the agenda has been going on over the past 20 years--it is not something new. The tied vote is called a "de novo" situation which was adopted by the Council some time ago, simply stating that a tie vote would be the same as denial. These are not new. As far as the time limitation, Mayor Schroder indicated that there is not a city or agency in the Bay Area that does not have some type of time limitation and he believed that 3 minutes is adequate.

Mike Alford commented on the 3-minute rule. He spoke on how many people need more time as some people feel intimidated by the Council and it is difficult for them to say everything within that time. Mr. Alfred stated that the people are the ones who vote for "you" so you should listen to what they have to say.

Paul Wilson commented that the only voice that will be heard will be for the people to vote the Mayor out.

David Piersall recalled that when the Mayor was sworn in he indicated the need to put together a written document of Policies and Procedures. Mr. Piersall was glad to see it finally before the Council. He commented on the length of the meetings. Mr. Piersall indicated that yes the public needs to be heard, but it is more important that things get done.

Julian Frazer spoke on the time limits being imposed. He commented that presentations - not public comment are the reasons these meetings take so long. He said that prior Councils did not have these problems. Mr. Frazer stated that nominations should be done by consensus. He commented on how the agenda comes in at the last minute and how this was not the case before. Placing items on the agenda appears to be the Mayor's decision and felt that each Council-member should be able to put an item on the agenda and there should be a vehicle for the public to be able to place items on the agenda as well. Mr. Frazer noted that Council's use of staff and the police department should be spelled out.

Harlan Strickland indicated that this is a broken process. Mr. Strickland stated that people have the right to state their concerns, have their concerns considered by the government and by the audience at a reasonable time and with enough time to express those concerns. It is not right that important decisions are made after 11:00 p.m. He disagreed with the idea that only the Mayor can appoint. Allowing only the Mayor to set the agenda excludes minority interests. He

indicated that changes to the agenda should be posted at least 24 hours in advance and the Consent Calendar should be a 5 minute item which has not been the case in years. He recommended that Item I, Council Business, be placed after Public Comment—not last. Presentations should start earlier, perhaps at 6:00 p.m. Mr. Strickland opposed the 3-minute time limit and stated that people should be able to give their time to another speaker.

There being no further speakers, Mayor Schroder closed public discussion.

Councilmember Wainwright suggested revisions to the Policies and Procedures. He noted that under *Agenda and Preparation* this should be shared by the Mayor and the Vice Mayor. *Election of Council Officers* should include that the Vice Mayor should only serve for one year.

Councilmember Wainwright stated that he felt what is being proposed by the Mayor would be denying him and each of the other members of the Council, unless they happen to be in his favored position, no real influence on what would be on the agenda, who would be appointed to subcommittees, and appointments to Commissions. He further indicated that the Mayor needed to involve the Councilmembers more.

Under *Council Subcommittees*, Councilmember Wainwright read a section in the first paragraph stating that section was an illegitimate restraint; in the second paragraph referencing the City's letterhead he recommended inserting the word "Mayor" which was agreed to. Under *Agenda Planning and Preparation*, he recommended adding any two members of the Council should be able to place more than one item on the agenda.

Councilmember Wainwright suggested that the Council should be made aware of what is being placed on the agenda. He suggested a time limit can be placed on presentations or perhaps start earlier, but we need to plan ahead so that the business part of the meeting does not start so late. Under *Posting of the Agenda*, add copies of the agenda packet. He indicated that somewhere in the policies it should cover Council use of staff. He agreed with the public in moving Council Items after Public Comment. He also thought it was a good idea to post the changes of the agenda at least 24 hours in advance. He also commented on the 3 minute time limit and believed that 3 minutes is too limiting and rather see a 5 minute time limit but with the Mayor's discretion based on what is being discussed at the meeting.

Vice Mayor DeLaney supported the rotation of the Vice Mayor position. Under Section III, *Council Subcommittees*, Vice Mayor DeLaney suggested amending the last sentence of the first paragraph to read "as long as they state they are communicating as a subcommittee—not representing the Council" the Subcommittee should be able to express their opinion. On Page 4, *Order of Business*, she agreed that the Consent Calendar should be placed further down on the agenda. Page 6, Item 5, *Interruptions and Courtesy*, and Page 11, *Order and Decorum*, suggested that these sections should be placed together since they are very similar. Page 8, Item 10, *Appeals*, indicated that it makes more sense to place it where it refers to Appeals on Page 6. Page 9, *Rules of Order*, indicated that this section was also similar to *Rules of Order*, on Page 5, should go together as well. Item #13, *Adjournment*, suggested some clarification of the policy was needed with respect to items in process. Page 10, *Manner of Addressing the Council*, recommended that this section be added to Page 11, *Enforcement of Order and Decorum*. Page 15, *Meals*, stated that she felt that the reimbursements were too high.

Economic Development Director Susan McCue commented that the Subcommittee's thought was to have a cap.

Councilmember Kennedy commented the cost was not that extravagant. She indicated that conferences and dinner meetings include the cost of the conference as well as the meal. Councilmember Kennedy stated that many groups have increased their costs as well and that is why these amounts were decided on.

Councilmember Ross stated that he disagreed with about 90% of the proposed changes. He noted that while the Policies and Procedures are important it really is not. The reason Martinez has an elected Mayor is because the people of Martinez wanted it that way. They voted upon it

approximately 23 years ago. Councilmember Ross stated that there was only one gavel up here, and he may not agree with everything, but not to the extent that he did not see the need and the value for somebody to run the ship. He indicated that he did not have a problem with time limits which he sees work in other jurisdictions.

Councilmember Ross liked the idea of yielding their time. As for agenda items, length of meetings, the Council needs to pick up the pace and do their homework. He agreed that Subcommittees do not speak for the Council, they can speak for themselves. However, Councilmember Ross indicated that if a Subcommittee goes before another agency without the support of the Council, the Subcommittee lacks authority.

Councilmember Kennedy commented on how long the Subcommittee labored on the Policies and Procedures and if it appears to be a bit, long and redundant, it's because it needed to be. She believed that the 3-minute limit would allow more public participation if our meetings moved along in a timely manner.

Mayor Schroder indicated that this was one his goals when he became Mayor. He disagreed with the idea that these polices and procedures is a power grab for the Mayor. He reiterated that we do have a directly elected Mayor, the electorate can always get a petition, put it on the ballot, and try to change it to a rotating Mayor as some of the other cities do. He mentioned that there was an appeal process—if the Mayor does not place something on the agenda which a councilmember has requested, he/she can always bring it to the Council and get consensus to place it on a future agenda. Mayor Schroder agreed with including the Mayor on Page 1, Section III, *Council Subcommittees*, in both paragraphs. He believed that it was time to act, and it can always be amended in the future.

City Attorney recommended that Council start with a main motion to approve the Policies and Procedures and then go through each amendment by motion.

On motion by M. Ross, seconded by J. Kennedy, approving a resolution adopting the City Council Policies and Procedures as submitted with the revisions by the City Attorney and corrections to Section V, A, *Authorized Expenses*, #6. – ...approving authority being the City Council.

Amendments to motion:

On motion by B. Wainwright, seconded by L. DeLaney, amending Section I, *Election of Council Officers*: that each councilmember will serve for one year unless circumstances make it impossible by the following vote: Kennedy, DeLaney, Wainwright, Ayes; Rest, No.

On motion by L. DeLaney, seconded by B. Wainwright, amending Section III, *Council Subcommittee*: ...members of a Council subcommittee may not hold themselves out as representing the City Council or the positions of the City Council without the express authorization of the majority of the Council given at a properly noticed meeting of the Council by the following vote: All Ayes.

On motion by B. Wainwright, seconded by M. Ross, amending Section III, *Council Subcommittee*, second paragraph to include the Mayor (Any individual Councilmember including the Mayor may use...) by the following vote: All Ayes.

On motion by B. Wainwright, amending Section IV, B, *Agenda Planning and Preparation* to include the Vice Mayor (except as provided below, the Mayor and the Vice Mayor shall have final approval...) died for a lack of a second.

On motion of L. DeLaney, seconded by B. Wainwright, amending section IV, C, *Posting of the Agenda*, to include agenda packet (persons who with to receive copies of the agenda and agenda packet by mail...) by the following vote: All Ayes.

On motion by B. Wainwright, seconded by L. DeLaney, amending section IV, E, Order of Business by moving (d) consent calendar to (I) City Council Items and I to D by the following vote: Kennedy, Ross, Schroder, No; Rest, Ayes.

On motion of M. Ross, seconded by L. DeLaney, amending section IV, E, by moving (I) City Council Items after (F) Ordinances by the following vote: All Ayes.

On motion of B. Wainwright, seconded by J. Kennedy, amending section IV, E, Presentations and Proclamations, that it is limited to 30 minutes; if they are to exceed 30 minutes, the meeting should begin at 6:00 p.m. by the following vote: Kennedy and Wainwright, Ayes; Rest, No.

On motion of L. DeLaney, seconded by J. Kennedy, amending section IV, G, #13, Adjournment, Discussion of no new item shall begin after 10:30 p.m. unless a majority of Councilmembers present vote to continue the meeting provided by the following vote: All Ayes.

On motion of B. Wainwright, amending section IV, G, #14, Public Comments, Time limits shall conform to a 5-minute limit, unless in the judgment of the presiding officer the circumstances dictate otherwise; died for lack of second.

On motion of M. Ross, seconded by B. Wainwright, amending section IV, G, #14, Public Comments, A speaker may have the ability to yield their 3 minutes to a particular speaker with a maximum time of 10 minutes by the following vote: Schroder, No; Rest, Ayes.

On motion of B. Wainwright, seconded by L. DeLaney, amending section IV, B, *Agenda Planning*, an agenda item that the Mayor objects to that any two members of the Council could place on the agenda an item by the following vote: DeLaney, Wainwright, Ayes; Rest, No.

On motion of M. Ross, seconded by L. DeLaney, to call the question by the following vote: All Ayes.

On motion of M. Ross, seconded by J. Kennedy, approving Resolution No. 040-06 adopting the City Council Policies and Procedures as submitted with the revisions by the City Attorney and corrections to section V, A, *Personal Expenses*—approving authority being the City Council, and including all amendments and corrections by the following vote: All Ayes.

On motion L. DeLaney, seconded by M. Ross, approved Resolution No. 041-06 rescinding and establishing by the following vote: All Ayes.

On motion of J. Kennedy, seconded by L. DeLaney, the Council unanimously introduced an ordinance amending Title 2. [S.McCue&J.Walter/41.07.00]

PUBLIC HEARING(S)

ORDINANCE(S)

CITY MANAGER

9. Marina Agreement Progress Report (standing)

Item continued [R.Pearson]

10. Redevelopment Financial Feasibility Study Progress Report (standing).

Item continued. [S.McCue]

11. Comment(s)/Update(s)/Report(s).

No comments made.

APPOINTMENTS TO COMMISSIONS AND/OR AGENCIES

12. Consider possible creation of a Historic Preservation Standing Subcommittee and approval of Council appointments to the Subcommittee (Continued from the April 19<sup>th</sup> meeting).

Item Continued. [41.02.00]

14. Consider and discuss placing an Infrastructure bond measure on the November 7<sup>th</sup> ballot as requested by Vice Mayor DeLaney (Continued from April 19<sup>th</sup> meeting)

Item Continued. [41.01.01]

15. City Council Comments.

Mayor Schroder announced Martinez Farmer Markets on Thursday, May 4<sup>th</sup> at 10:00 a.m. and at 10:00 a.m. on Sunday on Main Street.

Councilmember Kennedy announced the International Fair on Wednesday, May 10<sup>th</sup> from 10:30 a.m. to 1:00 p.m. at the Martinez Adult School.

Vice Mayor DeLaney announced a Cemetery Clean Up on May 13<sup>th</sup> from 10:00 a.m.; Fresh Studio Tour, a tour of the local art studios, on May 5<sup>th</sup> and on May 6<sup>th</sup>. For more information contact the Martinez Art Association.

Councilmember Wainwright requested that the City Attorney's memo of Robert's Rules of Order be made public, which he agreed.

#### ADJOURNMENT

Adjourned at 11:40 p.m. to a Regular City Council Meeting on May 17, 2006, 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 - 6/7/06