

## **CALL TO ORDER**

The Council met in Closed Session at 6:15 p.m. with all members present except Councilmembers Menesini and Ross who arrived at after roll call.

## **CLOSED SESSION**

Conference with Real Property Negotiators pursuant to Section 54956.8 of the California Government Code.

Property: 245 N. Court Street.  
Agency Negotiator: Don Blubaugh, City Manager; Jeff Walter, City Attorney; Joann Tool, Dep. Dir. of Parks & Community Svcs; Michael Chandler, Management Analyst.  
Negotiating Parties: Eagle Marine and City of Martinez.  
Under Negotiations: Price, terms of rent under lease.

## **RECONVENE - PLEDGE OF ALLEGIANCE - ROLL CALL**

Mayor Schroder called the meeting to order at 7:00 p.m. with Councilmembers Lara DeLaney, Michael Menesini, Mark Ross, and Vice Mayor Janet Kennedy all present.

Mayor Schroder reported that the Council met in closed session with respect to Conference with Real Property Negotiators regarding Eagle Marine lease, and direction was given to the City's property negotiators.

## **PRESENTATION(S)/PROCLAMATION(S)**

### [Presentation of Martinez Police Explorer program and acknowledgment of Post 2243.](#)

Police Commander Tom Simonetti made a presentation explaining the origin of the program and the current Martinez Explorer program. The following Explorers were recognized for achieving senior rank: Ashley White - Sergeant; Shane Wignall - Sergeant; Morgan Drewry - Lieutenant; and Eddie Cellini - Captain.

A presentation was also made to Officer Dan Lynch for his mentoring and service of over 20 years to the Martinez Explorers.

Officer Lynch expressed his appreciation for the opportunity to serve. The Council expressed their congratulations to all.

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

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

Barbara Kapsalis spoke about the bus stop at Court Street across from the Post Office and thanked the Council for the garbage can. She also asked the status of racks for newspapers and magazines. City Manager Don Blubaugh indicated that a report would be given to Ms. Kapsalis with a copy to the Council. Mayor Schroder expressed his appreciation to Main Street and the merchants for their work in the downtown cleanup.

Chris Kapsalis reported numerous accidents on D Street, Sabral Circle and Shell Avenue, and requested more police presence in the area.

Mike Alford expressed his concern with the higher crime rate in the downtown. He also confirmed with Commander Simonetti that the City was intends to replace all the retiring Police Officers. Mr. Alford asked for an update of the Shell report from the November 2005 incident, which Councilmember Ross indicated that he would supply at the end of the meeting. Mr. Alford also commented on the increase in respiratory problems among Bay Area residents. Councilmember Ross indicated that Bay Area air quality has been improving, although he acknowledged that it was not enough yet.

## **CONSENT CALENDAR**

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

1. Motion approving Check Reconciliation Register(s) dated 04/12/07 and 04/19/07.  
[C.Heater/2.01.01]
5. Resolution No. 030-07 approving and authorizing the City Manager to execute a lease with the Martinez Arts Association for the temporary use of 630 Court Street as an art gallery with retail sales.[K.Majors/5.15.00]
6. Resolutions Nos. 031-07 and 031A-07 authorizing Mayor and/or City Manager to sign funding agreements with State and CCTA for Phase 3 of the Intermodal Project.[R.Pearson/03.03.05&6.7.0]
7. Resolution No. 032-07 granting recognition to the Laborers Local 324 as the Majority Representative for the Miscellaneous Bargaining Unit, as provided for in the Employer-Employee Relations Policy and Rules and Regulations, Resolutions 42 and 43, 1971 series.[L.Marshall/04.05.00]
8. Resolution No. 033-07 reclassifying the Chief Building Inspector position to Deputy Public Works Director and establishing a salary range for the classification.[L.Marshall/04.05.01]

Items 2, 3 and 4 were pulled for question or comment.

Mayor Schroder opened public comment on Items #1, 5, 6, 7, and 8.

Paul Wilson commented on Item 1 regarding a payment to James Busby, in addition to fee waivers. Councilmember DeLaney noted that the County is currently in negotiations for purchase of Mr. Busby's building. Regarding Item 5, Mr. Wilson discussed the need for earthquake retrofitting and compliance with the ADA. Regarding Item 6, he asked who would be responsible for hazardous waste assessment and cleanup at the site if the City buys it. Mr. Blubaugh explained that the City would not buy the property unless the cleanup is completed or monies are set aside or the City is reimbursed.

Mayor Schroder explained that the fee waiver for Mr. Busby's property was done at the request of the County in order to ensure that the Clerk-Recorder's office remains in Martinez.

Regarding Item 6, Mike Alford asked how the soil samples will be done. Mr. Blubaugh said that an independent testing company would do the sampling.

Mayor Schroder closed public comment on Items #1, 5, 6, 7 and 8.

On motion by Mark Ross, Councilmember, seconded by Janet Kennedy, Vice Mayor, to approve Items 1, 5, 6, 7 and 8. Motion unanimously passed 5 - 0.

2. [Motion approving the Arts and Library commission recommended \\$1,000 grant to the Friends of the Library for a concert series in the new backyard of the Library.](#)  
[\[J.Tool/16.09.00\]](#)

Councilmember DeLaney asked for more information about the concert series, which Parks & Recreation Commissioner John Fuller provided.

There was no public comment on the item.

On motion by Lara DeLaney, Councilmember, seconded by Janet Kennedy, Vice Mayor, approve Item 2, Arts and Library Commission recommended \$1,000 grant to the Friends of the Library for a concert series in the new backyard of the Library.

3. [Motion approving Arts and Library recommendation: \[J.Tool/16.09.00\]](#)
  - a) allowing the Friends of the Library to have Public Works mount metal sculptures on the back library wall; and
  - b) allocating the remaining library needs assessment money, in the amount of \$3010 to the project; and
  - c) allowing the use of \$15,000 previously allocated for fencing to be used for fencing as well as other site amenities.

Councilmember DeLaney suggested that approval of the Arts & Library recommendation be contingent on receipt of the proposed funding from Wells Fargo Bank. Vice Mayor Kennedy expressed agreement with Councilmember DeLaney's suggestion.

Mayor Schroder opened public comment on the item.

Mr. Fuller gave some background on the recommendation, noting that the fence around the library backyard is actually on Wells Fargo property. He also mentioned other items that the money could be spent on to improve the library property, and he discussed budget issues with Wells Fargo.

Mayor Schroder confirmed that the cost of the gates would be covered as well. He also recommended Mr. Fuller contact former City Planning Commissioner Greg Young at Wells Fargo for assistance.

Councilmember Menesini asked for a better cost breakdown, which Mr. Fuller provided. Councilmember Menesini expressed support for the recommendation, but he also asked for more specifics from staff about the project.

Councilmember DeLaney revised her suggestion to make approval contingent upon receipt of a budget. Seeing no further speakers, Mayor Schroder closed public comment on the item.

On motion by Lara DeLaney, Councilmember, seconded by Michael Menesini, Councilmember, approve Item 3 Arts and Library recommendations A, B, and C contingent upon Council and staff working with Wells Fargo to get their cooperation with the fence and develop a budget with specifics and deliver a copy of the budget before any monies are disbursed. Motion unanimously passed 5 - 0.

4. [Resolution No. 029-07 reaffirming City adoption of Contra Costa County Urban Limit Line. \[R.Pearson/9.01.05\]](#)

Councilmember Ross discussed the benefits from approval of Measures L and J, expressing support for the resolution.

Mayor Schroder opened public comment on the item.

Paul Wilson asked what conditions would allow the urban limit line to be altered without voter approval. Councilmember Menesini explained that the resolution had been recommended by the County, and would allow for some flexibility for the cities, and he gave an example of a situation.

Mr. Wilson commented on the City's "sphere of influence" area. Councilmember Ross clarified that the urban limit line is not necessarily co-terminus with the City limits. He also noted that the City cannot expand the urban limit line area substantially without voter approval.

Mike Alford expressed confusion about whether the Council could approve some changes, and the Council explained that it could only be done for 30 acres or less.

There were no further speakers on the item.

On motion by Mark Ross, Councilmember, seconded by Lara DeLaney, Councilmember, to approve Item 4, Resolution No. 029-07 reaffirming City adoption of Contra Costa County Urban Limit Line. Motion unanimously passed 5 - 0.

## **PUBLIC HEARING(S)**

9. [Public hearing to consider an appeal of the Planning Commission's decision to deny the application for Administrative Design Review to legalize construction of partially completed addition. Project address: 639 Ulfinian Way.\[A.Lopez/09.08.04\]](#)

Councilmember Ross stated a conflict of interest and recused himself from the dais. Mayor Schroder commented on the need for all speakers to treat each other with respect, even when disagreeing.

Albert Lopez, Deputy Director of Community Development gave the staff report and PowerPoint presentation, discussing the background of the project, existing conditions, and details of the proposed addition. He also discussed the basis of the appeal, chronology of the application, City code requirements, and possible courses of actions for the Council. Mayor Schroder reviewed the history briefly and asked for clarification on the dimensions of each scenario of the proposal, which Mr. Lopez provided.

Mr. Lopez also responded to questions from the Council about each scenario and view impacts to the neighbor.

Councilmember DeLaney asked about statements made by the applicant as to the impacts on the home from the design recommended by the Planning Commission. Mr. Lopez acknowledged that some of the design options would require the removal of part of the existing roof.

Councilmember DeLaney asked for clarification on the Planning Commissioners' opinion on the applicant's original design, and Mr. Lopez confirmed that at least one of the Commissioners would have approved the original design.

Vice Mayor Kennedy asked about the roofline angle, and why part of the existing roof area would have to be removed for some of the options to work. Mr. Scola acknowledged that it could be kept, without impacting the neighbors' view, but the removal of it would compensate for other lost view area. He indicated that the structural integrity would not be affected either way.

Mayor Schroder opened the public hearing.

Applicant David Elliott commented on the financial hardship resulting from the stop-work order on his project, as well as reviewing the chronology of events. He questioned whether Planning Department staff had handled the application appropriately, and whether the project should have been sent to neighbors for comment/recommendation. He asked that the Council consider allowing him to continue with the original design for the roof extension.

Councilmember Menesini asked, and Mr. Elliott confirmed that the proposed remodel would not add square footage to the house.

In response to a further question from Councilmember Menesini, architect John Hofferr explained the effects of the different rooflines on the design of the project. He expressed strongly that he would not re-design the project; rather, the applicant would have to find a new architect at that point.

Vice Mayor Kennedy asked which roofline the building permit was pulled for. Mr. Elliott explained that he made it clear to the Planning Commission and staff he would not follow the design they recommended unless the cost impact was reasonable. He also indicated he had sent an appeal letter to the City before permits were pulled.

Councilmember DeLaney questioned why the architect would get building permits for the other design if they were going to build to the first design. Mr. Elliott deferred to the architect for explanation.

Mr. Hofferr explained his purpose in coming in to the City to get permits for the outside work. He also discussed the unique design of the original house, as opposed to other homes in the neighborhood, and the recommendation of the applicant's insurance company to remove the leaking part of the deck/roof and create a roof that will fit with the neighborhood. He also expressed frustration with the process and application of the City's regulations.

Blaine Bonacci, licensed contractor associated with the project, briefly commented on communication difficulties with City staff and its regulations. He indicated it should have been a simple project with few hindrances. He also questioned whether view preservation could really be an issue under California law. He expressed confidence that the proposed changes would be a benefit to the neighborhood.

Diane Sargeant discussed the need for balance between an owner's rights to improve their property against a neighbor's rights. She shared her experience with a similar situation last year when her neighbors' addition affected her view. She asked that the rules be applied equally to all residents.

Chaz Lemmon expressed support for the staff recommendation to deny the appeal, and his original objection to the project because of proposed trees that would block his view. He also clarified that there was more than one person in the neighborhood that objects to the proposed changes.

Mike Parisi explained his objections to the roof design, not to the applicant himself or his entire project. He also expressed support for the compromise design recommended by the Planning Commission.

Nancy Parisi commented on the impacts to the value to her home from the loss of view.

Ginger Augden said the actual amount of view lost by the neighbor was less than 5%, and she urged the Council to let the project go forward so Mr. Elliott could finish construction and enjoy his home. She chastised the local newspaper as well for not presenting a balanced story about the matter. She was confident that the finished project would be an asset to the neighborhood.

Margaret Shelton shared a letter from Mr. Elliott to the neighbors, explaining the dispute and his desire to complete the project. She indicated that 15 neighbors had signed a petition in support of the project.

An unidentified speaker expressed concern about the precedent that could be set regarding view preservation. He thought the applicant should follow the limits of the permit.

Oliver Seth commented on the City's history of cooperation among neighbors and subsequent changes to the views enjoyed by the original property owners. He asked that the Council find a way to preserve owners view rights.

At the request of Mayor Schroder, City Attorney Jeff Walter reviewed the City's view ordinance pertaining to trees and shrubs. He also discussed the City's design review ordinance related to structural blocking and balancing the needs of owners and neighbors. He confirmed that the City's view ordinance did not apply to City trees.

Councilmember Menesini further noted that the view ordinance primarily addresses growing trees and shrubs, and is not applicable to previously existing trees.

John Wilson said any owner of this house would want to repair the existing leak and correct the design flaw that came with the house. He asked the Council to allow the minor changes to be made.

An unidentified speaker said the applicant should proceed with what was approved, and cost should not be a factor in the decision process.

#### Rebuttal

John Hofferr confirmed that the applicant has no plans to plant new palm trees, and would comply with the City's drought-tolerant ordinance. He also expressed concern about the unexpected financial burden on the applicant.

Councilmember DeLaney asked at what point the architect became aware that the design was to be constructed to the green line rather than the blue line. Mr. Hofferr said he was first aware of it the day the stop work order was issued.

David Elliott clarified that no work was begun until after the appeal period. He felt that his appeal letter should be honored since he wrote and sent it within the proper time frame. He indicated he had waited for a response from the City, but received none, so he proceeded with the project. He expressed confidence that the impacts on the neighbor would be minimal, and will be compensated by the aesthetic improvement to the neighborhood itself.

Councilmember DeLaney questioned whether Mr. Elliott realized he was breaking the law when building without a permit. Mr. Elliott commented on the many home renovations that are done without permits.

Mayor Schroder closed the public hearing.

Councilmember DeLaney asked staff whether a variance request would have required a public hearing. Mr. Lopez confirmed that there would have been a hearing before the Zoning Administrator which also requires notification.

Mayor Schroder asked for clarification as to whether this was a 2nd story addition. Mr. Lopez confirmed that any structure over 12 feet is considered a second story, regardless of whether there is living space below or not.

Vice Mayor Kennedy expressed frustration with disputes like this. She chided the applicant for not following the plans for which the permit was pulled, and she agreed it should have been redtagged. She indicated she could not support the blueline design, but she would support a modification that would allow the interior to remain the same.

Councilmember Menesini said he liked the blueline design, but he also could not support the building of a project that does not follow the approved design. He suggested some financial consideration for the applicant, and he indicated he could support Vice Mayor Kennedy's compromise allowing the existing roof to stay.

Councilmember DeLaney agreed, and she expressed regret at the inconvenience and additional cost experienced by the applicant. She also agreed that the process should be upheld, but she thought Vice Mayor Kennedy's proposed compromise had some merit.

Mayor Schroder acknowledged that the public hearing process can be a difficult one, and he discussed his own experience when he made modifications to his home. He expressed appreciation for the blueline design, although he agreed with the other Councilmembers that the process needs to be followed. He too liked Vice Mayor Kennedy's compromise design.

On motion by Michael Menesini, Councilmember, seconded by Janet Kennedy, Vice Mayor, deny the application for Administrative Design Review to legalize construction of partially completed project and grant approval to the build the redline roof version at the existing roofline, and direct staff to return with a resolution with findings. Motion unanimously passed 4 - 0. Abstain: Mark Ross, Councilmember.

The Council recessed for 10 minutes.

Councilmember Ross returned to the meeting.

## **CITY MANAGER**

11. [Motion to delay in bidding the Ferry Pier Removal Project and authorize staff to prepare and submit a funding request to Bay Conservation Development Commission.](#)

Joann Tool, Deputy Director of Parks and Community Services, presented the staff report, discussing the funding opportunity and process. She noted that staff is staying in close contact with BCDC also.

Councilmember Ross expressed an interest in helping with BCDC, as a member of the BAAQMD. City Manager Don Blubaugh explained staff's purpose in informing the Council of the current situation.

Councilmember DeLaney asked for clarification on timing constraints, which staff provided. Ms. Tool also noted that very few other cities have projects that are ready to go, which puts Martinez ahead of the game.

Vice Mayor Kennedy expressed appreciation for whoever found this funding opportunity.

Mayor Schroder opened public comment on the item.

Paul Wilson noted that this is part of the entitlements that was supposed to be part of the marina operations. He expressed concern about the money that the City has spent on items that the Department of Boating and Waterways was to pay for. Mayor Schroder responded that none of the DBAW funding would be lost. Councilmember DeLaney clarified that the DBAW funding will be in the form of a loan to the City.

Councilmember Ross added that the entitlement period is not nearly over, and the DBAW loan was not supposed to pay for the ferry pier removal.

Mike Alford commented on the length of time the City has been waiting for the repairs to be done. He urged the City to go ahead and start the repairs now. He expressed concern that waiting for this funding could result in another year's delay. Mayor Schroder confirmed with staff that if the City starts the repairs, the potential for \$500,000 grant funding would be lost.

There was no further public comment on the item.

Councilmember Menesini commended staff for a great job.

On motion by Mark Ross, Councilmember, seconded by Lara DeLaney, Councilmember, delay in bidding the Ferry Pier Removal Project and authorize staff to prepare and submit a funding request to Bay Conservation Development Commission. Motion unanimously passed 5 - 0.

12. [Comment\(s\)/Update\(s\)/Report\(s\).](#)

No comments or updates made.

## **APPOINTMENTS TO COMMISSIONS AND/OR AGENCIES**

### 13. [Consider appointments to the Intermodal Ad Hoc Committee.\[41.02.00\]](#)

Mayor Schroder explained the purpose of the Intermodal Ad Hoc Committee and why it needs to be re-activated.

Councilmember Menesini commented on opportunities that could be available to the City, and his desire to serve on the committee.

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

On motion by Rob Schroder, Mayor, no second required, to appoint Councilmember Menesini and Mayor Schroder to the Intermodal Ad Hoc Committee. Motion unanimously passed 5 - 0.

## **CITY COUNCIL**

### 10. [City Council Comments.](#)

Councilmember Ross reviewed the Shell Release report on the incident in 2005. He presented a copy of the report to Mr. Alford. He also spoke confidently on improved air quality in the area due to BAAQMD efforts.

Vice Mayor Kennedy reported on her attendance at an ABAG meeting regarding a new program called Focus. She also announced a Relay for Life event on the weekend of August 11th and announced the E-Waste event this weekend at Alhambra High School.

Councilmember DeLaney announced this weekend's Grand Opening of the Farmers Market on Sunday; announced the grand opening of the Willows Campbell Theater on May 11th at 6:30 p.m.

Mayor Schroder complimented Main Street Martinez for their Downtown Clean Up, and recognized City crews for their extra clean up in the downtown area. He expressed concerns to the Police Department from merchants regarding persons that are scaring away customers with bizarre behavior. After brief discussion, Councilmember Menesini suggested that staff and Council meet with nonprofit organizations, merchants, and the County to discuss alternatives.

## **ADJOURNMENT**

Adjourned at 10:29 p.m. to a Regular City Council Meeting on May 16, 2007, 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 - 6/2/07