

CALL TO ORDER

Mayor Schroder called the meeting to order in the Council Chambers at 6:10 p.m. with all members present except Councilmember Menesini who arrived right after Council adjourned.

I. CLOSED SESSION

A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS pursuant to Section 54956.8 of the Cal. Gov't Code.

Property: 630 Court Street;

Agency Negotiators: Don Blubaugh, City Manager, Karen Majors, Asst. City Manager, and Jeff Walter, City Attorney;

Negotiating Parties: City and Goldenberg & Associates, Inc.;

Under Negotiation: Price, terms of payment and other conditions of sale or disposition.

RECONVENE - PLEDGE OF ALLEGIANCE - ROLL CALL

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

He reported that the Council met in closed session and that direction was given to property negotiators.

PRESENTATION(S)/PROCLAMATION(S)

A. Swearing in of Sergeant Paul Starzyk, Police Officer Thomas Miller, and Reserve Police Officer Ryan Baille.

Chief of Police David Cutaia thanked the community and Council for all their support. He introduced the Officers and gave a brief background on each Officer. City Clerk Gary Hernandez performed the swearing in, and Commander Tom Simonetti did the badge pinning. The City Council welcomed the new officers to the City and congratulated Sergeant Starzyk on his promotion. Mayor Schroder also recognized Chief Cutaia for his service to the City, noting this might be his last meeting before his retirement. Chief Cutaia announced a reception for the officers and invited the public to attend.

On motion by Mark Ross, Councilmember, seconded by Lara DeLaney, Councilmember, add an urgency item to the agenda for an expenditure authorization allowing the City Manager to spend up to \$10,000 on the beaver project to install a pond leveler or some other similar device. Motion unanimously passed 5 - 0.

PUBLIC COMMENT (COMPLETE SPEAKER CARD AND GIVE TO CLERK)

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

Phillip Ciaramitaro, President Martinez Opera, gave a progress report on past and future projects on the Martinez Opera.

Mike Alford questioned why the City does not promote Christmas. He also asked the Council to consider making a decision the first time it hears an item, rather than forming a committee to study further. He wished the Council "Merry Christmas."

Paul Wilson thanked the Council for paving his street. He reported a recent stabbing in his neighborhood and urged the City to take control and make Martinez a safer place.

Phillip Ciaramitaro expressed his concern with the environment and urged the City to work towards being more environmentally friendly, especially locally. He also requested an update on the ferry pier.

Councilmember Menesini expressed support for Mr. Ciaramitaro's suggestions regarding environmentally friendly policies and actions. Councilmember Ross agreed.

CONSENT CALENDAR

MOTION WAIVING READING OF TEXT OF ALL RESOLUTIONS AND ORDINANCES.

2. Motion rejecting claim(s) against the City by Linda & Peter Lorah, Claim #07-18.
3. Motion approving Check Reconciliation Registers dated 11/01/07, 11/08/07, 11/15/07, and 11/21/07.
4. Motion accepting Financial Report for the first quarter 2007-2008.
5. Motion accepting the AB1600 report for fiscal year ending June 30, 2007.
6. Resolution No. 096-07 authorizing the City Manager to apply for Contra Costa Community Development Block Grant Funds (CDBG) to design and install accessible ramps in downtown area and low and moderate income neighborhoods throughout the City and authorize the City Manager to sign the standard grant agreements up to \$50,000.
7. Resolution No. 097-07 allocating all available Proposition 1B Funds for the Fiscal Year 2007-2008 Annual Pavement Management Project.

Mayor Schroder noted that the minutes in Item #1 would be handled separately. He opened public comment on Items #2-#7 of the Consent Calendar.

David Piersall spoke on Item 4, and the ongoing difficulties in the real estate and building industries was likely to result in a substantial shortfall in tax and fee revenue. He advised the Council that it was time they begin planning for this shortfall; and suggested that the report be amended to more accurately reflect reality.

Councilmember Ross and Mayor Schroder explained the budget process, noting that multiple factors were considered using conservative projections, and the budget is closely monitored and will be revised at mid year if needed.

Councilmember DeLaney commented on the level of City reserve funds, but cautioned about the impact of upcoming benefit increases approved by the Council earlier.

On motion by Janet Kennedy, Vice Mayor, seconded by Mark Ross, Councilmember, to approve Items #2 - #7 of the Consent Calendar. Motion unanimously passed 5 - 0.

1. Motion approving City Council Minutes of October 17, and November 7, 2007, and November 15, 2007.

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

On motion by Michael Menesini, Councilmember, seconded by Janet Kennedy, Vice Mayor, to approve City Council Minutes of October 17, 2007.

Motion unanimously passed 3 - 0. Yes: Michael Menesini, Councilmember, Janet Kennedy, Vice Mayor, and Rob Schroder, Mayor. Abstain: Lara DeLaney, Councilmember, Mark Ross, Councilmember.

On motion by Mark Ross, Councilmember, seconded by Lara DeLaney, Councilmember, to approve City Council Minutes of November 7, 2007.

Motion unanimously passed 4 - 0. Yes: Lara DeLaney, Councilmember, Michael Menesini, Councilmember, Mark Ross, Councilmember, and Rob Schroder, Mayor. Abstain: Janet Kennedy, Vice Mayor.

On motion by Mark Ross, Councilmember, seconded by Lara DeLaney, Councilmember, to approve City Council Minutes of November 15, 2007.

Motion unanimously passed 4 - 0. Yes: Lara DeLaney, Councilmember, Michael Menesini, Councilmember, Mark Ross, Councilmember, and Rob Schroder, Mayor. Abstain: Janet Kennedy, Vice Mayor.

Urgency Item--Item 7. A. Authorizing the City Manager to spend up to \$10,000 on the beaver project to install a pond leveler and other expenses.

Councilmember Ross reported on the work of the Beaver Subcommittee and their recommendations regarding funding. Councilmember DeLaney concurred it was a reasonable recommendation.

Captain David Frey commented on the need for Martinez to prosper economically while still protecting the wildlife. He urged the Council to take this opportunity to do something good for the future.

Julian Frazer complimented staff, particularly David Scola, for being proactive on the issue. He noted the General Plan contained an element for Alhambra Creek enhancements that the Council should implement.

Mike Alford expressed the hope that haggling over money will not prevent the best work possible from being done. He also noted that water upstream near the John Muir House needs to be looked at and cleaned up.

Mayor Schroder closed public comment.

Councilmember Menesini asked whether updated hydrology reports have been given. Councilmember Ross said it was on the next agenda for the Subcommittee.

Councilmember Menesini asked whether the pond leveler will be lost if the dam needs to be pulled. Councilmember Ross said he thought it would still be workable.

Mayor Schroder thanked Councilmember Ross for the update and the recommendation, noting that this is just a short term solution while the issue continues to be studied. While he acknowledged that the Council may prefer to keep the beavers, all aspects need to be considered.

On motion by Mark Ross, Councilmember, seconded by Michael Menesini, Councilmember, authorize the City Manager to spend up to \$10,000 on the beaver project to install a pond leveler and other generated expenses. Motion unanimously passed 5 - 0.

Item #10 taken out of order.

10. A. Accepting the 2008 Base Year Rate Review Report for services provided by Allied Waste Services (AWS) (the report recommends no change to rates for year 2008); and

B. Recommend expansion of AWS recycling services to include increased multi-family recycling services and implementing a new bulky recycling collection for residential customers.

Bart Carr, Solid Waste and Recycling Coordinator, gave the staff report.

In response to a question from Councilmember DeLaney, Mr. Carr gave additional information about the new on-call services.

Erik Nylund of Newpoint Group, explained the cost analysis, projections and recommendations of the AWS Base Year Rate Review.

Tim Argenti, General Manager, answered questions from the Council and expressed appreciation for the partnership with the City. Mr. Carr provided additional clarification on the process for disposal of fluorescent light bulbs.

Mayor Schroder commended Mr. Argenti for his good work. Vice Mayor Kennedy agreed, particularly for the single-stream recycling. She asked about food-waste disposal, and Mr. Argenti explained that most would go down the garbage disposal. Susan Hurl of Allied Waste Services was also present to answer questions.

Paul Wilson confirmed this was a review year only and the rates could not have been raised anyway.

On motion by Mark Ross, Councilmember, seconded by Michael Menesini, Councilmember, accept the 2008 Base Year Rate Review Report for services provided by Allied Waste Services; and recommended expansion of recycling services. Motion unanimously passed 5 - 0.

Item #12 taken out of order.

12. Adopting a resolution rescinding Resolution No. 003-85, establishing a one-year term for Vice Mayor, and appointing Mark Ross as Vice Mayor for the year 2007-2008.

Mayor Schroder discussed the recently-developed Council Policies and Procedures, and the need to change the Vice Mayor term to meet State requirements. He also thanked Janet Kennedy for her service over the last year.

On motion by Michael Menesini, Councilmember, seconded by Janet Kennedy, Vice Mayor, to approve Resolution No. 098-07 rescinding Resolution No. 003-85, establishing a one-year term for Vice Mayor, and appointing Mark Ross as Vice Mayor for the year 2007-2008. Motion unanimously passed 5 - 0.

PUBLIC HEARING(S)

8. Public hearing to introduce an ordinance amending Title 15, Buildings and Construction, of the Martinez Municipal Code by adopting by reference the International Building Code, 2006 Edition, the Uniform Mechanical Code, 2006 Edition, the Uniform Plumbing Code, 2006 Edition, and the National Electric Code, 2005 Edition.

Deputy Director of Public Works Don Salts presented the staff report. Councilmember DeLaney asked for a specific example of one of the changes, which Mr. Salts provided.

Mayor Schroder opened and closed the public hearing, with no speakers coming forward.

On motion by Mark Ross, Councilmember, seconded by Lara DeLaney, Councilmember, introduce an ordinance amending Title 15, Buildings and Construction, of the Martinez Municipal Code. Motion unanimously passed 5 - 0.

9. Public hearing to consider:
 - A) Resolution adopting a mitigated negative declaration and a mitigation monitoring program pertinent to a General Plan Amendment re-designating approximately 3 acres located at 635 Vine Hill Way from Open Space to Residential.

- B) Resolution approving a General Plan Amendment to re-designate approximately 3 acres from "Open Space" to "Residential," to allow the possibility of creating 4 additional single family home lots, in addition to the one existing single-family home on the 5.57 acre site at 635 Vine Hill Way.

Vice Mayor Mark Ross recused himself and left the dais.

Albert Lopez, Deputy Director of Community Development presented the staff report. Mayor Schroder mentioned concerns expressed to him by neighbors regarding soil stability and view preservation. Mr. Lopez said those issues would usually be addressed in more detail during the Subdivision Map process, although a preliminary soils report has been done.

Mayor Schroder also asked about ownership and maintenance of the remaining scenic easement, and Mr. Lopez confirmed it would be private ownership.

Mayor Schroder also asked when a summary of existing private and public open space in the City would be ready, and staff indicated that the first draft is currently being finalized and hopefully will be finished in January.

Stephen Gizzi, attorney representing property owner Gary Freitas, clarified the details of the application. He requested that the Council support the project and adopt the resolutions before them. He also debated some of the arguments raised by the opposing attorney, although he indicated he had not been able to evaluate all of them because he had received the written copy late.

Thomas N. Lippe, attorney representing "Keep Our Open Space," an association of citizens who live in the area of the property, requested that the Council deny the application for a General Plan Amendment. He discussed legal restrictions that make the application insupportable, based on the earlier CEQA process.

Councilmember DeLaney asked for clarification on the 1976 EIR mitigation measures referred to by Mr. Lippe, which he provided. Councilmember DeLaney disagreed with his conclusion.

The Council recessed for 10 minutes.

Mayor Schroder opened the public hearing and read comments from the Speaker's Card from Russell Roofener in support of the project.

Jack Miffleton commented on the view he enjoys from his townhouse on Vine Hill. He expressed confusion as to why the zoning on this property should be changed. He urged the Council to deny the application, noting the Planning Commission had recommended the same.

Andrew Beaman was also opposed to the proposal. He cautioned the Council about the precedent that could be set.

Frank Alvarado expressed support for the application.

Earnie Clements was supportive of the application, saying it would be an enhancement to the City.

Henry Benton noted that the Contra Costa Times was strongly supportive of open space preservation. He commented on the Planning Commission's recommendation to deny, as well as the example set by John Muir.

Bill Wainwright expressed concern that the permanent open space in the City will be converted piecemeal to residential. He noted that he holds Mr. Freitas in the highest regard, as he has been very supportive of the City. He urged the Council to honor the contract made in the past.

Hal Olson discussed the benefits to the City from keeping open space. He was also concerned about the negative effects from changing the General Plan designation. He suggested that a special election should be held before allowing the change. He was mystified why the Council would even consider it.

Catherine Sander commented on the beauty of the open spaces in the City and the need to preserve them as much as possible. She was concerned that the Council had made up their minds too quickly and without careful consideration, especially noting how much thought the Planning Commission had given before making the decision to deny the application.

Dee Gatas-Sinclair discussed the beauty of the rural area and the wildlife, noting that the space recommended as a park was the least desirable part of the property. She commented on the narrowness of the road, and she added that County Connection has rerouted their bus line as well. She urged the Council to reconsider their decision.

Leslie Chernak, adjacent property owner, expressed her opposition to the General Plan Amendment. She noted that the owners knew the open space designation was in place when they bought the property.

Mayor Schroder read comments from John Sander, opposing the change.

Shirley Switalski said she was not opposed to development, but could not support changing open space to residential zoning. She mentioned wildlife in the area as well.

Mayor Schroder also read comments from Jan Switalski, who was strongly opposed to removing the open space protection.

Christine Coward Dean, member of the family that originally owned the property, noted that this property was deemed unbuildable - not because of any vision on the part of the Council. She indicated that her family unanimously supports the proposed project.

Carol Baier discussed the viewshed, natural on-site amenities, risks from grading, drainage difficulties, and the dangerous precedent that could be set from approval of the General Plan Amendment.

Carlos Rodriguez commented on the long process endured by Mr. Freitas and the beautification that will result if the amendment is approved.

Mayor Schroder read comments from Stacy Francisco in support.

Lindsey Higgens was also supportive of the proposal and of property owner rights to develop.

Michael Hanley commented on other developments that have had open space included, urging that the City honor the earlier commitment to preserve some here as well. As a realtor, he also discussed negative impacts to housing values if the change is allowed.

Albert Turnbaugh expressed support for the application, noting that the Planning Commission was split on the issue, with two supportive but wanting more information first. He also noted that the number of people speaking in favor of the project was unusual, and that the supporters come from a broad spectrum of the population.

Gary Hernandez acknowledged that much has changed in the City over the last 30 years, and change and improvements are necessary. He felt that improving the Freitas property would improve the neighborhood property values overall. He asked the Council to make a decision in the best interests of the City.

Jim Hein expressed support for the beavers, for development and for this project. He urged the Council to consider private property owner rights and the benefit to the City.

Frank Fernandes was also supportive of the project, with compromises given and received.

Bob Russell asked the Council to uphold the Planning Commission's decision and keep the property open space, especially since Mr. Freitas knew the zoning and General Plan designation when he purchased the property.

Mike George questioned the meaning of the word "permanent" since that was the description of the open space designation 30 years ago. He recommended that the Council honor the commitment made as part of the past conditions of approval. He also shared copies of an editorial from the Contra Costa Times, on behalf of open space.

Doyle Gatas reviewed the 20-year timeline of the property, including numerous rejections by the Planning Commission, commenting on the amazing turnaround at this final point before the City Council.

Andrew Mack questioned the wisdom of changing a decision made 30 years ago, indicating there have already been hundreds of homes built in a close radius of the property - giving all the more reason to deny the application. He asked the Council to consider the electorate in making their decision.

Mark Thomson discussed the Negative Declaration for the original development and the lack of consideration given to residents on Meadowvale. He encouraged Mayor Schroder to follow through on his suggestions regarding the need for an open space inventory.

Lorna Thomson noted that there is a creek on the property and showed its location on the map. She was concerned that the wildlife might be cut off from their water source if the lot is subdivided. She also noted that there were originally five open space lots in the subdivision, with this one being the best of the five. She commented on the negative impacts from the loss of view, and she asked the Council to consider the interests of the whole community, not just one individual. She also commented on a project that Councilmember Kennedy had opposed while on the Planning Commission, resulting in open space being set aside as part of the mitigation.

Councilmember Kennedy said she never opposed the project cited by Ms. Thomson, but rather worked hard in support and voted to approve it. Ms. Thomson apologized for relying on hearsay information.

Maryetta Faulk discussed research she has done into public and private open space and the differences between the two. She was supportive of the project.

Susan Higgins discussed the long process thus far and compromises made on the part of Mr. Freitas in order to accommodate the neighbors. She also commented on needed improvements that will be made if the application is approved. She asked the Council to continue its support.

Mike Alford commented on wildlife displaced by developments approved in the past, noting that Mr. Freitas should have the same right to make a profit on his property as any other property owner. He expressed confidence that the proposed new homes would increase property values throughout the neighborhood.

Julian Frazer stated that property zoned open space should not be developed regardless of ownership. He also reminded members of the Council of their personal commitments to open space preservation and to bear in mind that Martinez is an open space town.

Paul Wilson cautioned the Council about the precedent that could be set and to considered the electorate.

Rick Calhoun, adjacent property owner, agreed with Mr. Wilson about the precedent that will be set and the ultimate impact on open space throughout the City.

Kristin Hendersen was concerned about environmental impacts and the Negative Declaration mitigations, particularly cumulative impacts.

Rebuttal

Steven Gizzi reiterated that this property is not "permanent" open space and that he has not had adequate time to respond to the other attorney's documents. He also noted that mitigation measures can be deleted with legitimate reasons. He concluded by reviewing benefits to the City from approval of the application.

On motion by Michael Menesini, Councilmember, seconded by Janet Kennedy, Vice Mayor, add a closed session to the agenda, since the need arose after the posting of the agenda, to confer with counsel to discuss the legal comments made tonight before making a decision. Motion unanimously passed 4 - 0. Yes: Lara DeLaney, Councilmember, Michael Menesini, Councilmember, Janet Kennedy, Vice Mayor, and Rob Schroder, Mayor.

The Council returned at 11:25 p.m.

City Attorney Jeff Walter stated that the City Council met in closed session pursuant to California Government Code 54956.9 (B)(3) of subdivision (b), and he recommended that the Council continue this item to the next meeting.

City Attorney Walter clarified that the Council has closed the public hearing and the discussion for the next meeting will be limited to the legal issues raised and for the Council's final decision.

On motion by Michael Menesini, Councilmember, seconded by Lara DeLaney, Councilmember, continue a General Plan Amendment redesignating property located at 635 Vine Hill Way to allow the applicant's attorney a chance to respond to the arguments made by Mr. Lippe. Motion unanimously passed 4 - 0.

ORDINANCE(S)

CITY MANAGER

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

APPOINTMENTS TO COMMISSIONS AND/OR AGENCIES

CITY COUNCIL

13. City Council Comments.

Councilmember Kennedy wished Councilmember DeLaney a Happy Birthday. She also thanked everyone who attended and participated in the Tree Lighting and Light Parade; and she recognized staff's hard work on the event.

Councilmember DeLaney also expressed appreciation for staff's work on the Light Parade, as well as the hard work on tonight's presentations. She thanked Mr. Ciaramitaro for his report on the Martinez Opera. Councilmember DeLaney also requested that the Council consider some type of smoking policy for multi-family housing.

Councilmember Menesini also recognized staff for all their hard work.

Mayor Schroder recognized staff's hard work tonight and throughout the year. He also commented on the wonderful tree lights downtown, and he commended the public for handling themselves well and respecting each other's comments.

ADJOURNMENT

Adjourned at 11:34 p.m. to a Regular City Council meeting on December 19, 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 – 1/16/08