

## **CALL TO ORDER**

Mayor Rob Schroder called the meeting to order at 6:00 p.m. with Councilmembers Lara DeLaney, Janet Kennedy, and Vice Mayor Mark Ross present. Councilmember Michael Menesini was absent. Mayor Schroder indicated that an urgency item has to be added to the closed session, that the need to take action arose subsequent to the posting of the agenda, and immediate action was needed regarding the Zocchi property.

Assistant City Attorney Veronica Nebb stated that they learned yesterday of an issue affecting the negotiation requiring direction from the City Council before the end of the week.

On motion by Janet Kennedy, Councilmember, seconded by Lara DeLaney, Councilmember, to add an urgency item - Conference with Real Property Negotiators pursuant to California Government Code Section 54956.8 with respect to the Zocchi Property. Motion unanimously passed 4 - 0. Absent: Michael Menesini, Councilmember.

Council adjourned to closed session in the City Manager's Office.

## **CLOSED SESSION**

- A. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION pursuant to California Government Code Subdivision (a) of Section 54956.9.

Name of Case: Gonzales v. City of Martinez, Claim #: CV081754

### *URGENCY ITEM ADDED:*

- B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS pursuant to California Government Code Section 54956.8.

Property: APN 373-030-018-7 & 373-030-019-5, Ferry Street, Martinez.  
Agency Negotiators: Karen Majors, Acting City Manager; Jeff Walter, City Attorney;  
Wendy Roberts, Asst. City Attorney.  
Negotiating Parties: City of Martinez and Carlo Zocchi, Alhambra Industrial Park; Ethan Friedman, Miller Starr & Regalia.  
Under Negotiation: Purchase Price, and terms of payment.

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

Mayor Schroder opened the meeting at 7:00 p.m.

PRESENT: Lara DeLaney, Councilmember, Janet Kennedy, Councilmember, Mark Ross, Vice Mayor, and Robert Schroder, Mayor.  
EXCUSED: None.  
ABSENT: Michael Menesini, Councilmember.

Mayor reported that the Council met in closed session and direction was given to legal counsel with respect to the existing litigation. He also noted that an urgency item was added to the Closed Session by a vote of 4 to 0, regarding the Zocchi property, and direction was given to the property negotiators.

Mayor Schroder introduced and welcomed the new City Manager Phil Vince. City Manager Vince thanked the Council for trusting him with such responsibility and the opportunity given him.

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

### **PUBLIC COMMENT**

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

Betty Kritikos requested information on fire prevention, especially weed abatement. She explained that every year she has to go around in circles with the fire department so that the weeds in the open space area near her home can be cut in a timely manner. Her concern was referred to Public Works Director Dave Scola.

Margaret Netherdly, requested that the City preserve Martinez' small town look, since other similar cities have lost that appeal.

Shane Hunter and Todd Saunders expressed their concerns regarding the need for a BMX park in Martinez. Mr. Hunter noted that BMX sport will be in the Olympics for the first time in China. He invited the Council to the San Ramon BMX Park on Saturday for an event. Mr. Saunders indicated there is a location for the BMX Park on the back side of the rodeo grounds past the bocce courts. Councilmember DeLaney requested that the BMX Subcommittee be resurrected, and Mayor Schroder agreed, but he also indicated he wanted to be sure to involve the Park and Recreation Commission.

Mike Alford expressed his concerns with the City, i.e., poor conditions of the sidewalks, marina, and why nothing is being done. He was especially frustrated because he never gets answers to his questions. Mr. Alford asked why the City doesn't receive the money from settlement claims from Shell and other industries; while at the same time residents are being asked to reduce their use of wood stoves due to pollution. He also questioned the attorney expense of \$60,000 spent on the beaver issue, while the beavers are not harming anyone. He noted there is an osprey that roosts on one of the light fixtures at the park, and he wanted to be sure no one thinks it is a danger to the City.

Julian Frazer suggested that the City consider cattle grazing to assist in keeping weed control on all open space. He also indicated that there had been a BMX track near the spoils basin, and the rodeo park (on East Bay Park land) gets much more activity than mentioned by Mr. Saunders. In regards to gas fireplace inserts, Mr. Frazier stated that some people have different economies and keep their home warm by using wood, and the pollution created by wood-burning fireplaces is much less than that created by the refineries. He commented that the jewel of Martinez is the ecology, the wildlife, creek life, etc.

Paul Wilson thanked the City maintenance staff for the weed abatement on Talbart Street and thanked Dave Scola for the Joltin' Joe's refurbishment. Mr. Wilson thanked City staff for the wonderful cleanup at the Marina. He questioned why the Skateboard Park was closed. Chief Simonetti responded that it was closed due to vandalism, and it will reopen when the repairs are completed.

Rich Verrilli apologized for the letter that appeared in the Gazette and withdrew his remarks. Mayor Schroder appreciated his comments.

## **CONSENT CALENDAR**

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

1. Motion approving City Council Minutes of June 18, 2008. [M.Cabral]
2. Motion approving Check Reconciliation Registers dated 06/26/08, 06/30/08, and 07/09/08. [C.Heater/02.01.01]
3. Motion adopting Ordinance No. 1346 C.S. amending the Martinez Municipal Code, Title 9, Public Peace Morals and Welfare, Chapter 9.52, Drinking Alcoholic Beverages in Public, to include the Consumption and Possession of Alcoholic Beverages in certain public places; and amend Title 1, General Provisions, Chapter 1.12, Violations - Infractions to include the amended provisions of Chapter 9.52. [G.Peterson/04.08.12]
4. Motion adopting Ordinance 1347 C.S. amending the Martinez Municipal Code, Title 13, Utilities by adding Chapter 13.62, Regulation of State Video Franchise Holders; and establish franchise and PEG fees and customer service penalties. [M.Chandler/31.08.00]
5. Resolution No. 066-08 accepting bids for the 2008 Play Structure Renovation at Hidden Valley Park and awarding the construction contract to Planned Environments, Inc, in the amount of \$253,433.74. [T.Tucker/11.03.05]
6. Resolution No. 067-08 authorizing the City Manager to execute an agreement with the Contra Costa County Community Development Block Grant Program (CDBG), for the 2008-09 Curb Ramps Project in the amount of \$20,000 ; and to authorize the allocation of \$25,000 of the Gas Tax funds to Account Number C1010 for the 2008-09 Curb Ramps Project.[T.Tucker/]

7. Resolution No. 068-08 authorizing the Chief of Police to submit proposal and execute contract between the Martinez Police Department and California Department of Alcoholic Beverage Control for receipt of funds from the Grant Assistance Program administered by the Department of Alcoholic Beverage Control. [T.Simonetti/]

At the request of Vice Mayor Ross, Item 8 was removed for further discussion.

Mayor Schroder opened and closed public comment on Items #1-#7 with no speakers coming forward.

On motion by Mark Ross, Vice Mayor, seconded by Lara DeLaney, Councilmember, to approve Items #1 through #7 of the Consent Calendar. Motion unanimously passed 4 - 0.

8. Resolution No. 069-08 accepting bids for the 2008 Alhambra Creek Sediment Removal, Project No. C3005, and awarding the construction contract to Hess Construction Co. Inc., in an amount of \$106,275. [T.Tucker/10.07.00]

Vice Mayor Ross asked for a brief overview by City Engineer Tim Tucker, specifically addressing how this project might affect the beavers in the creek.

Mr. Tucker discussed the impacts of the floods experienced by the City in 2005, particularly the erosion in the Briones hills. He also reviewed the sediment removal project as developed with the Army Corps of Engineers and the Regional Water Quality Control Board.

Mayor Schroder asked, and Mr. Tucker confirmed that there would be no work done north of the bridge, although both acknowledged there was silt there that needs to be removed also.

Vice Mayor Ross noted that cleaning the silt out regularly was one of the most important maintenance items in the whole flood control project. Mr. Tucker agreed. Vice Mayor Ross also confirmed with Mr. Tucker that the beavers were not in the area that would be affected by the changes. Mr. Tucker indicated that the primary concern of the public was about saving the willow trees as much as possible.

Councilmember DeLaney asked and Mr. Tucker discussed what would be done with the silt that is removed.

Mayor Schroder opened public comment on the item.

Paul Wilson noted that the silt removal was part of the conditions of approval for the flood control project. He expressed hope that this will satisfy those who have been threatening the City with a lawsuit, and he felt the removal should have been done in a timelier manner for the benefit of the flood plain. Mayor Schroder said financing was the major reason that the work hadn't been done sooner.

Vice Mayor Ross added that this project was planned long before the beavers came along.

Mike Alford noted that the former City Manager, Don Blubaugh, had thought this project would be done right after the pilings were removed. He also noted that his earlier comments about the 10-year process were about the marina. He questioned why consultants are always needed, at additional cost to the City. He expressed hope that the new City Manager will have meetings with the public, for greatest success.

Heidi Perryman expressed appreciation to Mr. Tucker for meeting with her to address her issues. She was concerned not just about the willows, but about all the feeding habitat of the beavers, with the indirect effect of driving the beavers away. She gave Mayor Schroder a copy of the book.

Julian Frazer agreed with Ms. Perryman. He also commented on the impacts from people on the flood control channel, as opposed to the small impacts from the beavers. He cautioned the City to analyze the soil before putting it in a City park. He also discussed alternatives that would save some of the willows and the tules. He noted that if the City had not spent money on legal consultants, there would be more money to develop alternatives to preserve the habitat.

Seeing no further speakers, Mayor Schroder closed public comment on the item.

Vice Mayor Ross expressed agreement with some of the speakers regarding the beaver habitat. He suggested the City Manager meet with them to see what else can be done.

Councilmember DeLaney suggested they explore a feed replacement program.

Mayor Schroder reminded everyone that this is the main drainage area for the Alhambra watershed. Councilmember DeLaney said the feed replacement program would allow the project improvements to go forward, while still protecting the beavers.

Mayor Schroder asked, and Mr. Tucker discussed the anticipated timeline for the project.

Councilmember Kennedy asked whether the sediment removal would ease the impacts of rainy weather during the coming winter season. Mr. Tucker said it would.

Vice Mayor Ross said he thought there could be a combination solution. Mayor Schroder asked, and Mr. Tucker indicated that minor changes would not affect the already-bided project.

Vice Mayor Ross noted that change orders are common with all projects. City Attorney Veronica Nebb cautioned that the design professional should be consulted to analyze the impacts on the efficacy of the project, depending on the extent of the proposed changes.

On motion by Mark Ross, Vice Mayor, seconded by Lara DeLaney, Councilmember, to approve Resolution No. 069-08 accepting bids for the 2008 Alhambra Creek Sediment Removal, Project No. C3005, and awarding the construction contract to Hess Construction Co. Inc., in an amount of \$106,275 and have staff review if some of the vegetation can be left and if the design professional determines that some of the vegetation can remain and/or supplemental feeding would be allowed then staff will pursue that course; however, if the design professional doesn't

determine that vegetation can be left, then that would be the course that will be pursued, and supplemental feeding can be discussed by the Council at a later date. Motion unanimously passed 4 - 0.

## **PUBLIC HEARING(S)**

### **CITY MANAGER**

9. Consider request to withdraw the Condition of Approval requiring the Villa Del Sol Project (located at Berrellesa and Marin Vista) to contribute to the City's Affordable Housing Trust Fund, and direct staff to bring an amended ordinance to the Planning Commission to effectuate this change. [K.Majors/9.2.1]

Assistant City Manager Community Development Director Karen Majors presented the staff report.

Mayor Schroder opened public comment on the item.

AnaMarie and Isidro Farias, applicants, commented on their desire to help create home ownership opportunities in the downtown, as well as difficulties in finding buyers primarily due to the credit crunch faced by first-time homebuyers. Ms. Farias discussed their desire to shift the funds originally proposed for the City's Housing Trust Fund into a down-payment assistance fund. Mr. Farias commented on the milestones reached by their project - LEEDS certification, an example for infill development, first project under the Downtown Specific Plan (and an example for future projects), a livable community near transportation, financial investment into Martinez, and infrastructure drainage improvements. Ms. Farias thanked the Council for their partnership and support of the project from its beginning.

Mayor Schroder complimented the couple for the wonderful final product achieved after a long process with many challenges.

Councilmember DeLaney commented on the merits of their request, given the benefit to the City of providing affordable ownership units.

Councilmember Kennedy noted that both Isidro and AnaMarie worked hard to develop the City's Inclusionary Ordinance. She expressed appreciation for the affordability of the project.

Richard Verrilli said he could not think of a more deserving request, given the fine project and the leadership it represents, as well as the personal contributions made to the City by them. He even suggested the City should make some reimbursement for the infrastructure improvements made.

Mike Alford mentioned several questions he made in the past about the Inclusionary Ordinance and the Housing Trust Fund, with no response given. He encouraged the Council to waive all inclusionary requirements until the market turns. In response to a further question from Mr. Alford, Councilmember Kennedy explained how affordable housing is determined. Mr. Alford encouraged the Council to explore every avenue to help the citizenry get through these difficult times.

Paul Wilson expressed appreciation for the improvement the project brings to his neighborhood. He noted that this site was never designated as an opportunity site under the Housing Element. He noted as well that the Council had directed the Planning Commission to create an Inclusionary Housing Ordinance, and if they had achieved it in a timely manner this request would not be necessary. Mayor Schroder responded that the Planning Commission had sent forward an Inclusionary Ordinance, which the Council had sent back to staff for some re-working. He mentioned several other ordinances that Mr. Vince and the Council will work to implement in a logical sequence.

Maryetta Faulk asked, and Ms. Majors confirmed that these units now qualify for moderate income levels as determined by Contra Costa County for the current year. She commented on the precedent that will be set by approving this request. Councilmember Kennedy noted that the applicants are also proposing a down-payment financing program.

Julian Frazer cautioned the Council to keep its objectivity. He noted that this project was given a higher density in exchange for providing the contribution to the City's Housing Trust Fund. He questioned whether these could really be considered affordable units, since incomes are also being affected by the economy. He noted as well that some of these units may yet end up as rentals in spite of the project goals. He felt that the \$5000 per unit fee was not unreasonable, and that the buyer of one of these units could potentially access the fund to help them. He urged the Council to deny the request, in view of the precedent that would be set.

Seeing no further speakers, Mayor Schroder closed public comment.

Ms. Farias clarified that the project density was allowed under the Specific Plan. She also discussed the 100% financing option, including a 3% contribution from them.

Vice Mayor Ross acknowledged that the Council has not followed through in providing affordable housing, and these applicants have been willing to kick-start the program. He questioned whether the \$40,000 originally designated would do that much to provide affordable housing (which will actually be determined by the lender and the appraiser). He deferred to Councilmember Kennedy as more knowledgeable in this area.

Councilmember Kennedy discussed the difficulties in determining what size project should be required to meet the inclusionary housing requirement. She noted this is a great time for first-time homebuyers, and she was supportive of the request. She was confident that future requests would be considered on their merits, and approval of this one would not set an undue precedent.

Councilmember DeLaney reiterated that the goal of an inclusionary housing ordinance is to create affordable housing, which this project does. She agreed it is a beautiful project, on an environmentally-sensitive site, and provides needed revitalization in the downtown. She also disagreed with Mr. Frazier's contention that the project does not meet affordability standards.

Councilmember Kennedy noted that the income standards are set by the federal government, based on the local area.

On motion by Lara DeLaney, Councilmember, seconded by Janet Kennedy, Councilmember, to approve request to withdraw the Condition of Approval requiring the Villa Del Sol Project to contribute to the City's Affordable Housing Trust Fund, and direct staff to bring an amended ordinance to the Planning Commission to effectuate this change. Motion unanimously passed 4 - 0.

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

Nothing reported.

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

### **CITY COUNCIL**

11. A. Consideration and possible adoption of a Resolution No. 070-08 determining that the Public Interest and Necessity demand the acquisition, construction, and completion of parks, library improvements, and pool safety and improvements, and their financing through the issuance of General Obligation Bonds; AND
- B. Consideration and possible introduction of an ordinance calling a General Municipal Election and ordering the submission of a proposition to incur bonded debt for the purpose of the acquisition, construction and completion of parks, library improvements, and pool safety and improvement to the qualified voters of the City of Martinez at the General Municipal Election to be held on November 4, 2008. [M.Tool/40.20.03]

Deputy Director of Parks and Community Services Joann Tool presented the staff report.

Mayor Schroder opened the public comment on the item.

Rich Verrilli said he would like to know how much the proposed bond would be for, as well as the allocation of the bond money to the various needs. He noted that various other bonds were also proposed for the upcoming election. He suggested the bond focus on the library and the pool, rather than the parks. Mayor Schroder noted that the last meeting had an extensive report about the proposed bond in the amount of \$30 million, as well as the allocations.

Vice Mayor Ross asked, and Ms. Tool discussed the various allocations.

Mike Alford agreed with Mr. Verrilli that it would be better to focus on the pool and library, allowing the bond amount to be less. Given the tough economic times, he thought a lower bond amount would go over better with the voters.

Julian Frazer commented on the East Bay Regional Parks bond including creek restoration. He urged the Council to include some creek work, perhaps a creek walk with signage, as part of the bond.

Katherine Hern assured the Council that all the concerns raised by the public have been addressed. She noted that the process and all the components were not taken lightly. She also noted that getting 2/3 support for the bond would be difficult even in the best economic times - now might even be better since people will have to be taking vacations at home.

Seeing no further speakers, Mayor Schroder closed public comment on the item.

Vice Mayor Ross expressed strong support for the bond, acknowledging that hard work done by staff and the consultant. He also commented on the state of much of the parks equipment, and he noted that 20 years ago the City took on a bond for \$25 million for the high school. Approval for \$30 million now is not unlikely.

Councilmember DeLaney said that as a fiscal conservative, she would have rather found another way to fund these improvements. However, this seems to be necessary, and she would support it.

Councilmember Kennedy indicated she was also very supportive, as she has been from the beginning.

On motion by Janet Kennedy, Councilmember, seconded by Mark Ross, Vice Mayor, to approve Resolution No. 070-08 determining that the Public Interest and Necessity demand the acquisition, construction, and completion of parks, library improvements, and pool safety and improvements, and their financing through the issuance of General Obligation Bonds; and introduce an ordinance calling a General Municipal Election and ordering the submission of a proposition to incur bonded debt for the purpose of the acquisition, construction and completion of parks, library improvements, and pool safety and improvement to the qualified voters of the City of Martinez at the General Municipal Election to be held on November 4, 2008. Motion unanimously passed 4 – 0.

## 12. City Council Comments.

Mayor Schroder recognized Scott Busby and the owners on the triplex they just completed. He indicated that it was a wonderful addition to Main Street.

Vice Mayor Mark Ross answered questions from Mike Alford regarding why money fined by Shell and other refineries does not come back to the communities affected. Vice Mayor Ross stated while on the Bay Area Management Air District, he was asking that same question. There was one instance back in July 2002 or 2003 which Shell did have to fund the Martinez School District with a supplemental education program, a nurse was staffed at the Junior High, and other things. Vice Mayor Ross further informed Mr. Alford that fines from facilities go back to the Air Board's General Fund to monitor the rest of the Bay Area. He stated that he and Supervisor Uilkema have been working with the Board to allocate funding to the communities that are affected by pollution. He was hopeful that some of the \$3,000,000 fine paid by Shell for the most recent incident will come to the City in some form.

Councilmember Lara DeLaney thanked the Police Department and staff for the 4th of July celebration and for the quick response in addressing Mr. Wilson's concerns. She also stated she was glad that Mr. Vince was on board.

Councilmember Janet Kennedy thanked Chief Simonetti and members of the Police Department for the June 15th meeting on sexual predators. She also thanked City Engineer Tim Tucker and the Public Works Department for the telephone poles along Alhambra Avenue, and she announced "Relay for Life" at Las Juntas School on August 9th and 10th. Councilmember Kennedy recognized the loss of a real humanitarian and fighter for human rights in the death of Councilmember Donna Spring from the City of Berkeley.

Mayor Schroder reported three street lights that were out, one at Escobar (in front of Busby's property), one in front of Pac Mail, and the other is between John Muir Homesite and the Post Office.

## **ADJOURNMENT**

Adjourned at 9:23 p.m. to an Adjourned Regular Meeting on July 23, 2008, at 7:00 p.m. in the Council Chambers, 525 Henrietta Street, Martinez, CA.

Approved by the City Council,

Rob Schroder, Mayor

Mercy G. Cabral, Deputy City Clerk 9/3/08