

CALL TO ORDER

Mayor Schroder called the meeting to order at 6:00 p.m. in the Council Chambers with Councilmembers Lara DeLaney and Janet Kennedy present. Council adjourned to the City Manager's Office for Closed Session. Councilmember Michael Menesini and Vice Mayor Mark Ross arrived shortly after roll call.

CLOSED SESSION

- A. CONFERENCE WITH LEGAL COUNSEL ANTICIPATED LITIGATION Significant exposure to litigation pursuant to Cal. Gov't Code section 54956.9(b): One potential case.

RECONVENE - PLEDGE OF ALLEGIANCE - ROLL CALL

Mayor Schroder called the meeting to order at 7:35 p.m.

PRESENT: Janet Kennedy, Councilmember, Lara DeLaney, Councilmember, Michael Menesini, Councilmember, Mark Ross, Vice Mayor, Rob Schroder, Mayor.

EXCUSED: None.

ABSENT: None.

Mayor Schroder stated that he might have a possible conflict of interest and decided not to participate in the item discussed under Closed Session, until he receives a written statement from the Fair Political Practices Commission.

Vice Mayor Ross reported out from Closed Session stating that no action was taken. A Moment of Silence was held *in memory of* Carole Schroder, Sergeant Paul Starzyk, and Catalina Torres.

Mayor Schroder read a letter of condolences from the City of Walnut Creek to Sergeant Starzyk's family and to the Martinez Police Department.

Mayor Schroder expressed his appreciation, on behalf of the City Council, to City staff and especially the Community for all their support and understanding during these trying days. He expressed his appreciation to the many Police Departments that performed the duties of the Martinez Police Department.

PRESENTATION(S)/PROCLAMATION(S)

- A. *Certificate of Recognition to the City's Water Treatment Plant.*

Certificate presented to Water Superintendent Alan Pellegrini.

B. *Certificates of Appreciation to Robert Perry (former Design Review Committee Member).*

Mayor Schroder announced that Robert Perry was unable to attend tonight's meeting, but the Council wanted to recognize him for his public service to the citizens of Martinez.

C. *Presentation by East Bay Regional Park District regarding the November Bond Extension Measure.*

Presentation made by Carol Johnson, Community Relations Manager, for East Bay Regional Parks, on behalf of Boardmember Ted Radke who was unable to attend. Ms. Johnson informed the public on Measure WW Regional, Open Space, Wildlife, Shorelife, and Parks Bond Extension which is an extension of Measure AA, a voter approved Measure in 1988.

Mayor Schroder presented a Proclamation for "Falls Prevention Awareness Week" September 21-27, 2008 to Jennifer Mountain.

Charlotte Blome, on behalf of Martinez Sculptor Erik Blome, presented a proposal for a bronze statue of John Muir to be placed in the Downtown.

PUBLIC COMMENT

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

As president of the Martinez Rotary, John Fuller announced that they will take the lead as the service organization to help with the John Muir Statue.

An unidentified speaker expressed her concerns about the poor conditions at the Marina, including a leak on deck D resulting in no water to that deck, and a lack of service from the manager and staff. The Council directed City staff to look into the matter.

Mike Alford expressed his frustration with the election process, specifically regarding his candidate statement (ballot language), his limited opportunities to communicate with the public, and his inability to make a complete statement in the newspaper. Mr. Alford also commented on the economy, the City budget, police labor negotiations, infrastructure needs and redevelopment. Mayor Schroder noted that the County Clerk's office handles all aspects of the election, including nomination papers. The City has no authority over what is allowed in a Ballot Statement.

Julian Frazer requested that Council identify the Closed Session item. Assistant City Attorney Veronica Nebb, with permission from the Council, stated that the City had received a threat of litigation due to the beavers in Alhambra Creek. Mr. Frazer provided recommendations and information regarding the beavers, based on his work on the Beaver Subcommittee. He discussed other new wildlife in the creek, noting there have been no negative impacts from the beavers. He urged the Council to protect the beavers and stand up for the environment.

Seeing no further speakers, Mayor Schroder closed public comment.

CONSENT CALENDAR

MOTION WAIVING READING OF TEXT OF ALL RESOLUTIONS AND ORDINANCES.

1. Motion approving City Council Minutes of July, 2, July 16, and July 23, 2008. [M.Cabral]
2. Motion rejecting claim(s) against the City by Dan Smedley, Claim #08-20; Nartej K. O'Malley, #08-07; Fred Morse, Claim #98-23; Robert & Sondra Jerome, #08-24; Darlene Bay, Claim #08-19. [M.Cabral]
3. Motion approving Check Reconciliation Registers dated 07/17/08, 07/23/08, 07/24/08, 07/28/08, 07/30/08, 07/31/08, 08/06/08, 08/07/08, 08/12/08, 08/14/08, 08/15/08, 08/20/08, 08/21/08, and 08/28/08. [C.Heater/2.01.01]
4. Resolution No. 077-08 endorsing East Bay Regional Park District's proposed extension of Regional Open Space, Wildlife, Shoreline, and Parks Bond. [M.Cabral/3.4.01/41.00.05]
5. Resolution No. 078-08 establishing a Public, Educational and Governmental (PEG) Access Special Revenue Fund. [C.Heater/02/01.00]
6. Resolution No. 079-08 authorizing the City Manager to increase the salaries of Police Dispatchers. [T.Simonetti/04.05.06]
7. Resolution No. 080-08 authorizing the destruction of City files pertaining to the City Clerk's Office and the Personnel Division. [M.Cabral/40.10.01]
8. Resolution No. 081-08 opposing fiscally irresponsible State budget decisions that would borrow local government, redevelopment, and transportation funds. [M.Chandler/41.00.05]

Vice Mayor Ross highlighted the purpose of Item #4, which had been previously discussed by Carol Johnson.

Mayor Schroder opened public comment on the consent calendar.

Regarding Item #7, Councilmember Menesini said he thought the Martinez Historical Society should be involved in decisions regarding destruction of records. At the request of Mayor Schroder, Deputy City Clerk Mercy Cabral briefly discussed the process involved.

Regarding Item #2, Russ Holt noted that private individuals who have a tree branch from their own tree hit someone else's vehicle are responsible for any expenses that result. He could not understand why the City is not responsible for the damage caused by a tree branch that fell on a private vehicle that was legally parked at the curb. Mayor Schroder noted that it was being reconsidered by the insurance company at this time.

Julian Frazer expressed concern about the process, noting that items should be pulled from the Consent Calendar for public comment as well as Council comment. Regarding Item #4, he commented that East Bay Regional Parks is one of the most responsible agencies, and it is a local

employer. He also commented on Item #8 and the difficulties with redevelopment money and fiscal irresponsibility.

Regarding Item #3, Mike Alford asked about the \$250,000 spent on a title search. He also commented on Item #8 and how redevelopment will be affordable with money being redirected to the State. He expressed concern about the loss of the democratic process. He asked how the Council is protecting the City's finances. Mayor Schroder indicated that the City has a healthy reserve fund and a conservative budget. Mr. Alford questioned how the needed infrastructure repairs would be made if the bond measure fails.

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

On motion by Michael Menesini, Councilmember, seconded by Janet Kennedy, Councilmember, approve Items #1 through #8 of the Consent Calendar. Motion unanimously passed 5 - 0.

PUBLIC HEARING(S)

9. Public hearing to introduce an Ordinance removing a requirement for developer to contribute to the City's Affordable Housing Trust, as was required by Ordinance 1331 C.S. which rezoned a 10,000 square foot parcel located at 500-528 Berrellesa Street ("Villa del Sol") from the R-2.5/D Designation to the current R-1.5/D Multifamily Residential Designation (APN 373-233-002). [K.Majors/9.2.01]

Staff report presented by Karen Majors, Assistant City Manager Community and Economic Development. Vice Mayor Ross asked what effect there would be from the conversion of the units to rental housing. The Commission and staff discussed the different scenarios that could occur.

Mayor Schroder opened the public hearing.

Mike Alford noted that Ms. Farias is on the Planning Commission, which was the body that implemented the Housing Ordinance. He expressed that if this project is exempted from the requirement, so should all developments in similar circumstances. Mayor Schroder noted it was Vice Mayor Ross who challenged the Farias to make some contribution to the Housing Trust Fund, and it was not a legal requirement at that time. He added that the other two developments approved at the same time have not been built yet, and their conditions can be reconsidered as necessary at the time they are built.

Vice Mayor Ross indicated he thought it was reasonable to remove the requirement, since it was a voluntary agreement on the applicants' part and the price of the units have now come down to an affordable range.

Philip Ciaramitaro asked for clarification, asking whether an exemption should be better considered at the time each unit is sold.

Julian Frazer said he thought the trust fund requirement should remain. He suggested pro-rating the requirement according to the sales price. He cautioned the Council about releasing an applicant from any conditions of approval.

Russ Holt asked whether the applicants would lose money if the requirement is enforced. He noted that real estate development is a gamble, and the developer should not be released from the requirement just because the market turned downward.

Richard Verrilli commented on a recent article, "Politicians and Developers," noting that the applicants have contributed much to the community and have done much to improve the community. He also noted that other developers are free to make the same request.

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

Mayor Schroder expressed strong agreement with Mr. Verrilli's comments on the contributions that the Farias have made to the City. He thought their request for a waiver was reasonable.

Councilmember Menesini also agreed, especially since this was a risky project from the beginning, and it was a courageous effort on their part. He reiterated that the \$5,000 contribution was voluntary on their part. He agreed the waiver was reasonable.

Councilmember DeLaney noted that the owners were also willing to participate in a 100% financing program, with them carrying 2-3% of the financing themselves. She agreed there were extenuating circumstances that the Council should consider.

Councilmember Kennedy echoed the other Councilmembers, expressing appreciation for the many benefits that the project brings to the downtown. She also noted there was a Housing Advisory Committee that was formed and operated in a very public process, and the article mentioned by Mr. Verrilli had many misrepresentations that disrespected the membership and purpose of the Committee. She expressed support for the waiver, and appreciation to the Farias for their work on behalf of the City.

Vice Mayor Ross commented on the good faith shown by the applicants in being willing to make the contribution to the Housing Trust Fund, expressing confidence that they will continue to work to make the City a better place to live.

On motion by Mark Ross, Vice Mayor, seconded by Janet Kennedy, Councilmember, introduce an Ordinance removing a requirement for developer to contribute to the City's Affordable Housing Trust, as was required by Ordinance 1331 C.S. which rezoned a 10,000 square foot parcel located at 500-528 Berrellesa Street ("Villa del Sol") from the R-2.5/D Designation to the current R-1.5/D Multifamily Residential Designation (APN 373-233-002). Motion unanimously passed 5 - 0.

CITY MANAGER

10. Approve the recommendation from the Arts and Library Commission and the Park and Recreation Commission to develop, print and mail out an informational brochure regarding the Pool, Parks and Library Bond to the voters. [J.Tool/40.20.03]

Staff report presented by Deputy Director of Parks and Community Services Joann Tool.

Mayor Schroder opened public comment on the item.

Nancy Hobert announced a Candidates Night sponsored by the American Association of University Women on October 20th. She urged the Council to send out an informational brochure on the bond measure.

Katherine Hearn, co-chair of Citizens for Better Libraries and Parks, thanked the Council for their support of the issue. She asked for their continued support through the issuance of the brochures. She also noted that there is no viable backup plan given the determination made by the County Health Department. She reported that the Swim Team itself had contributed \$5,000 to the Bond Committee.

John Fuller reviewed the history of the previous bond measure that didn't pass. He noted that the informational brochure could make a big difference since one reason given for the lack of support previously was lack of communication.

An unidentified speaker commented on the need for ADA compliance at the library, and improvements that could be made if the bond succeeds.

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

Mayor Schroder expressed concern that even though the Council had decided not to go forward with redevelopment at this time, in deference to the parks and library bond measure, redevelopment is still being mentioned as an issue. He asked that any Council candidates set aside their differences on redevelopment to show support for this bond. He also discussed past opportunities when the Council did not put out informational brochures on behalf of ballot measures, even though it is legal to do so, as long as it is purely informational and not advocating for one side or another. He noted that other governmental entities (such as East Bay Regional Parks District) do it all the time. He commented on the importance of the measure and the benefit it could bring to the City, especially on behalf of future generations.

Vice Mayor Ross agreed with the Mayor, and he noted that the City park, recreational and library facilities are in need of upgrading. He also noted that it is the City's fiduciary responsibility to help the citizens understand the financial ramifications of the bond measures. He mentioned that there will be a citizens' oversight committee for the bond expenditures. He encouraged everyone to support the bond measure.

Councilmember Menesini expressed support for the bond measure as well, noting that every part of the City will benefit from the improvements proposed. He urged everyone to work together in support of the bond, especially noting there is no back up plan.

Councilmember DeLaney agreed that the bond measure was important and necessary, but she noted that the issue here is whether the Council should spend \$5,000 of City money on the informational brochure. She agreed with Mr. Fuller that the additional information could be crucial in communicating to the voters.

Councilmember Janet Kennedy recommended that a link to the Park Master Plan be added, since the Master Plan is the basis of much of the proposed expenditures. She also suggested a disclaimer be added to the brochure, to clarify that the City is not advocating for or against the bond measure. She commended both Commissions and the Committee for their excellent work.

On motion by Michael Menesini, Councilmember, seconded by Janet Kennedy, Councilmember, approve the recommendation from the Arts and Library Commission and the Park and Recreation Commission to develop, print and mail out an informational brochure regarding the Pool, Parks and Library Bond to the voters. Motion unanimously passed 5 - 0.

11. Discussion and policy consideration, and staff recommended short term and long term alternatives regarding the reuse of the Zocchi property and provide direction to staff.
[K.Majors/06.07.00]

Karen Majors, Assistant City Manager Community and Economic Development presented the staff report.

Mayor Schroder and Councilmember Menesini reviewed some of the information, comments and questions discussed by the Intermodal Committee.

The Council and staff discussed building demolition (including recycling of the materials), interim uses, parking, access issues, funding, and project phasing.

Mayor Schroder opened public comment on the item.

John Fuller, Parks and Recreation Commission, noted that the Commission had formed a subcommittee to look at recreational economic development issues. He asked the Council to consider allowing one of the concrete buildings to be used on a temporary basis for a pilot program for uses such as batting cages, driving range, or a rock-climbing wall.

Philip Ciaramitaro noted that the buildings are of some value, not necessarily for the arts, but there could be some usefulness in the future. He recommended at least one be retained.

Julian Frazer noted that he served on the Council during development of the Intermodal project, and the proposed third phase was at-ground level parking. He urged the Council to honor that vision of the parking area with park-like landscaping. He also commented on the intrinsic value of the view corridor.

Mike Alford asked how many acres were involved, the parking requirement of the grant, and whether additional uses could be put on the site. He also indicated his full support for the park/library bond measure. He noted that there were bridges across in that area as recently as 20-30 years ago. He questioned whether Court Street could be used for an at-grade crossing. Councilmember Menesini discussed the extreme cost for such crossing. Mr. Alford asked why some of the low-risk county prisoners couldn't be used to help clean up graffiti. Councilmember Menesini stated that there were some programs like that being used by the City.

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

Vice Mayor Ross reiterated his concern that the City should use the grant money as it promised CCTA it would be used. Councilmember DeLaney said she agreed, but she disagreed as to how the plan would be accomplished. She expressed interest in the suggestions for temporary uses made by Mr. Fuller.

Councilmember Menesini agreed, adding that the Council owes it to the City to find creative ways to provide additional recreational opportunities.

Councilmember Kennedy said she understood Vice Mayor Ross' concerns, but she agreed the Council should look at long-term and short-term uses for the site.

The Council gave direction and recommendations to staff: Removal of metal buildings; removal of existing fencing; begin conversations with CCTA regarding mixed use possibilities; develop interim and long term plans that address parking; access issues at Ferry and Berrellesa Streets and pedestrian access; and consideration of the short term reuse of the concrete building.

The Council also discussed how much to allocate from the General Fund.

On motion by Michael Menesini, Councilmember, seconded by Mark Ross, Vice Mayor, amend allocation from \$50,000 to a maximum of \$25,000 from the General Fund to secure and manage the remaining structures. Motion unanimously passed 5 - 0.

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

Nothing reported.

APPOINTMENTS TO COMMISSIONS AND/OR AGENCIES

CITY COUNCIL

13. City Council Comments.

Councilmember Menesini stated that the passing of Sergeant Paul Starzyk is heart-rending, and everyone needs to remember he died a hero. He further stated that Carole Schroder's passing is a great loss to the community.

Vice Mayor Ross expressed his condolences and added that he admired the actions of many, especially Mayor Schroder and Chief Simonetti during the last few weeks.

Councilmember DeLaney expressed her condolences as well, and she reported that she and Councilmember Kennedy will be attending the League of California Cities Annual Conference in Long Beach September 24-26, 2008. Councilmember DeLaney requested, for a future agenda, that they revisit the Council Policies regarding time limits, to which the Mayor agreed.

Councilmember Kennedy stated she would be at the League's Conference. She indicated that last week she felt overwhelmed with sadness, and so she decided to work at the Antioch Fairgrounds for "Project Homeless Connect" where services were provided to 671 men, women, and children. She announced the Shell Run on October 4th and the Pasta Feed the night before at the Shell House; October 11th Home Tour and the City's Restaurant Tour.

Chief Simonetti announced a Spaghetti Feed Fundraiser at Mr. Lucky's in Pleasant Hill on Monday, September 22, from 4:00 p.m. to 9:00 p.m., with all funds going to the Starzyk family.

Mayor Schroder expressed his appreciation to his colleagues, staff, and the Martinez community and the Contra Costa County community. He commented on the unselfish actions of Sergeant Paul Starzyk, and adjourned the meeting in memory of Carole Schroder, Sgt. Paul Starzyk, and Catalina Torres.

ADJOURNMENT

Adjourned at 10:52 p.m. in memory of Carole Schroder, Sergeant Paul Starzyk, and Catalina Torres, and then to a Regular City Council Meeting on October 1, 2008 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 – 11/5/08