

**CALL TO ORDER**

Mayor Schroder called the meeting to order at 6:00 p.m. with all members present except Vice Mayor Menesini.

**PUBLIC COMMENT**

There being no public comment made, the Council adjourned to the City Manager's Office.

**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.*

*ADDED FROM SUPPLEMENTAL AGENDA:*

- B. CONFERENCE WITH LEGAL COUNSEL--EXISTING LITIGATION pursuant to Cal. Government Code Section 54956.9(a).

Name of Case: Guardado vs. American Civil Contractors, Inc., et al.

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

The meeting reconvened at 7:00 p.m. with all members present as indicated. Mayor Schroder reported that a closed session was held regarding conference with legal counsel pursuant to Government Code Section 54956.9(b) one potential case; and exiting litigation pursuant to Government Code Section 54956.9(a) Guardado vs. American Civil Constructors, Inc., et al. and direction was given to legal counsel.

Assistant City Attorney Veronica Nebb added that direction was given authorizing legal counsel to defend the City with regard to that action and to accept service of process with regard to same.

PRESENT: Lara DeLaney, Councilmember, Janet Kennedy, Councilmember, Mark Ross Councilmember, and Rob Schroder, Mayor.

EXCUSED: Michael Menesini, Mayor

ABSENT: None.

**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.**

Russ Holt complained about the paving on Pacheco Blvd; Mayor Schroder directed Public Works Director to investigate the matter. Mr. Holt also requested that the Police Department start enforcement on bicycle riders who are not obeying traffic laws.

Dr. Robert Martin, representing California Collective Wellness in California, stated that their goal is to provide medical marijuana for individuals, and they wish to present a proposal to the City Council. Mayor Schroder stated that he would be willing to discuss the matter with him.

Luigi Di Tullio spoke on a recent accident which happened in Italy; regarding a train explosion killing and injuring many; he strongly cautioned against developing homes near the railroad track.

Paul Wilson spoke about his attendance at the Design Review meeting and the process with respect to the RCD project. He indicated that the Design Review Chair was very disrespectful to the public.

Mike Alford asked the Council not to take the month of August off, given concerns of the public during the current economic times. Mayor Schroder indicated that if something comes up a meeting can still be called during that time.

Richard Verrilli thanked the Council and staff for the crossing lights that were installed.

Jim Simmons reported on the progress at Rhodia, and he stated that both the City Manager and Chief of Police have been both accessible to meet with them. He also stated that he will continue to share information.

**CONSENT CALENDAR**

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

1. Motion approving Check Reconciliation Registers dated 06/18/2009 and 06/25/09.[C.Heater/02.01.01]
3. Resolution No. 072-09 establishing the City of Martinez Identity Theft Prevention Program. [C.Heater/02.01.00]

Councilmember DeLaney requested that Item 2 be pulled off the Consent Calendar.

Mayor Schroder opened and closed public comment for Items 1 and 3 of the Consent Calendar with no one coming forward.

On motion by Mark Ross, Councilmember, seconded by Janet Kennedy, Councilmember, to approve Items #1 and #3 of the Consent Calendar. Motion unanimously passed 4 - 0. Yes: Lara DeLaney, Councilmember, Janet Kennedy, Councilmember, Mark Ross Councilmember, and Rob Schroder, Mayor, Absent: Michael Menesini, Vice Mayor.

2. Resolution No. 071-09 authorizing the Mayor to execute addendums to the Franchise Agreements between the City of Martinez and Pleasant Hill Bayshore Disposal (now known as Allied Waste Services) for Solid Waste and Residential Recycling services. [M.Chandler/31.02.00]

Councilmember DeLaney commented on the great service that Allied Waste has provided. She reviewed some of the services offered; and encouraged the public to take full advantage of them.

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

On motion by Lara DeLaney, Councilmember, seconded by Mark Ross Councilmember, to approve Resolution No. 071-09 authorizing the Mayor to execute addendums to the Franchise Agreements between the City of Martinez and Pleasant Hill Bayshore Disposal (now known as Allied Waste Services) for Solid Waste and Residential Recycling services. Motion unanimously passed 4 - 0. Yes: Lara DeLaney, Councilmember, Janet Kennedy, Councilmember, Mark Ross Councilmember, and Rob Schroder, Mayor, Absent: Michael Menesini, Vice Mayor.

#### **PUBLIC HEARING(S)**

4. Public hearing to consider an ordinance amending Title 8, Health and Safety, of The Martinez Municipal Code by adding Chapter 8.50 Seismic Hazard Retrofit Program for Unreinforced Masonry Buildings. [D.Scola/9.16.05]

Public Works Director Dave Scola presented the staff report.

Councilmember DeLaney asked, and Mr. Scola confirmed there are currently 60 buildings needing retrofit. He also noted that all but one are in the medium-low risk categories. Mayor Schroder opened the public hearing.

Richard Verrilli asked what happens if the property owners don't comply. Mr. Scola reviewed the timelines for compliance, indicating that if any of the required standards are not met, the City can order the building vacated.

Mayor Schroder commented on the appeals process that has been added to the ordinance, for hardship cases. Councilmember DeLaney asked for clarification as to whether the Public Works Director or the Appeals Board would make the decision on appeals cases. Mr. Scola stated that the Public Works Director would choose three others to serve on the panel with him, and they would make the decision. Councilmember DeLaney asked to have that made clearer in the ordinance. Staff agreed to the change.

Councilmember Ross asked what happens if there is a tie among the 4-member appeal board. Mr. Scola said it would pass in that case. Councilmember Ross asked about conflict with ADA and green building ordinances. Mr. Scola said he did not think there would be a conflict, and the normal appeal process would apply.

Paul Wilson commented on the hiring of a civil or structural engineer to review the drawings, at the cost of the property owner. He also expressed appreciation for the provision that requires immediate action on the part of the property owner if at any time a building is deemed unsafe. He noted that demolition is not the only option if the property owner determines the cost of retrofit is too great, because there might be someone else willing to take on the challenge. He expressed appreciation for the ordinance, especially since public safety will be improved.

Mike Alford asked about the history of the ordinance, and Mayor Schroder confirmed that the State set some guidelines in 1990, and the City enacted its current voluntary ordinance as a result. Mr. Alford said he thought the process should be accelerated now, given that it has been 19 years, and the number of small quakes in the area has been increasing.

Albert Turnbaugh said he was fully supportive of an seismic retrofit ordinance, but he did not think the proposed ordinance would suffice. He thought residential buildings should also be included, and there are also unsafe buildings that are not masonry buildings. He also questioned whether the City should be able to require additional review of the property owner's plans, even if they were drafted by a qualified professional; and he suggested some financing mechanism for the improvements since some banks won't finance these types of repairs at this time.

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

Mayor Schroder commented on the process used in developing the ordinance, including meetings with property owners. He also noted that Walnut Creek enacted its ordinance twenty years ago, and somehow property owners (including himself) there were able to comply. He felt strongly that the ordinance, as drafted, is necessary to ensure public safety, one of the primary roles of the Council. He acknowledged that a similar ordinance might be necessary for residential buildings in the future, and that there should be retrofit guidelines for frame residential structures. He also acknowledged that the lending environment at this time is not very favorable, and perhaps there should be provision for suspending the ordinance until it changes.

Councilmember DeLaney disagreed with the provision to exempt "residential buildings with 5 or fewer units." Councilmember DeLaney also asked about the appeal process, and the statement in the ordinance that the decision of the appeal board is final. Ms. Nebb reviewed the appeal process outlined in the ordinance, confirming that as written the ordinance does not allow appeals beyond the appeal board.

Councilmember DeLaney acknowledged that loans for financing the repairs might be difficult to get at this point, but the ordinance allows up to 6 years for compliance and hopefully the economic situation will improve before then. She expressed support for passing the ordinance as quickly as possible.

Councilmember Ross noted that a redevelopment agency would be able to lend money for these kinds of improvements. He agreed that the criteria for financing are very tight. He also agreed with Councilmember DeLaney that residential property of less than 5 units should not be exempted. Mr. Scola said that preparation of a residential ordinance has begun, primarily because there are no retrofit guidelines for residential units.

Mr. Scola also responded to Mr. Turnbaugh's concern about the City being able to hire an outside professional to review plans brought in by the property owner. He noted that it is rarely needed, but occasionally drawings are brought in that are not consistent with standard design.

Councilmember Ross said he would like to see some provision in the future to include residential projects with 2-5 units, as well as a fee structure for the ordinance, although he was supportive of passing the ordinance tonight.

Ms. Nebb indicated it would be possible to introduce the ordinance as written, with later amendments related to residential units and to change the appeal process if needed.

Councilmember Ross thanked the Subcommittee and staff for their hard work on the ordinance.

Councilmember Kennedy commented on the deliberative process, including input from the public and stakeholders. She expressed interest in a residential URM ordinance, perhaps on a voluntary basis in the beginning.

On motion by Janet Kennedy, Councilmember, seconded by Lara DeLaney, Councilmember, introduce an ordinance amending Title 8, Health and Safety, of The Martinez Municipal Code by adding Chapter 8.50 Seismic Hazard Retrofit Program for Unreinforced Masonry Buildings. Motion unanimously passed 4 - 0. Yes: Lara DeLaney, Councilmember, Janet Kennedy, Councilmember, Mark Ross Councilmember, and Rob Schroder, Mayor, Absent: Michael Menesini, Vice Mayor.

## **CITY MANAGER**

5. Adopt a Resolution No. 073-09 authorizing the City Manager to establish an Installment Payment schedule for payment of development Application Fees on residential projects with 50 or more units. [K.Majors/02.02.09]

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

Councilmember Kennedy asked how the 50-unit threshold was determined. Ms. Majors said that it is usually the larger projects that generate higher fees. She indicated the Council can raise or lower the amount if they wish.

Councilmember Ross observed that for a small project, \$50,000 can be a lot of money. Mayor Schroder suggested setting a dollar amount for the deposit instead. Councilmember DeLaney asked how other jurisdictions handle similar programs. Ms. Majors deferred to the applicant, since staff had not been able to research that.

Ms. Nebb said that in other jurisdictions represented by her firm, staff decides what a reasonable amount is.

Sal Evola, Discovery Builders, discussed the economic situation that necessitates the request for the City to consider an installment program for development fees. He mentioned other jurisdictions that have enacted similar programs, noting that some allow for a small deposit with

billings for staff time as the project proceeds. He expressed appreciation for the City's consideration. Mayor Schroder said he would like to do anything possible to encourage development in these hard economic times. He thought \$50,000 was too high.

Councilmember Kennedy suggested that the program be flexible, depending on the size of the project and the amount of anticipated fees. Councilmember DeLaney said she was comfortable leaving it up to staff, within certain parameters. Councilmember Ross recommended a base amount of \$20,000, with sequential payments to follow.

Mayor Schroder opened public comment on the item.

Paul Wilson questioned whether all types of developments would be included. He thought each development should be considered on a case-by-case basis, noting that different types will have different costs associated.

Mike Alford said the City should jump on this opportunity, given the type of project, the location and the difficult economy.

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

Councilmember DeLaney indicated she agreed the City should do anything it can to encourage development. She thought staff should be given as much flexibility as possible.

Councilmember Ross agreed that the payment options should be available to any residential project, subject to staff review and decision. Councilmember Kennedy said she agreed as well, with the exception of remodeling projects.

Councilmember DeLaney said she thought the option should be available to commercial projects also. Ms. Nebb noted that the program could apply to commercial projects if the 50-unit threshold is removed. She also added that most jurisdictions do require that the development fees are paid in full prior to issuance of a certificate of occupancy. She recommended amendments that should be made to the resolution to reflect the changes discussed by the Council.

On motion by Lara DeLaney, Councilmember, seconded by Mark Ross Councilmember, to approve Resolution No. 073-09 authorizing the City Manager to establish an Installment Payment schedule for payment of development Application Fees and amending the title by, deleting 50 or more units and the word residential, making it applicable to commercial projects; fifth Whereas, remove 50 or more units, allowing proposal to be made to other developers; and final change being made in the Now, Therefore, be it Resolved; ...payment of development application fees be determined on a case by case basis removing on projects with 50 or more units. Motion unanimously passed 4 - 0. Yes: Lara DeLaney, Councilmember, Janet Kennedy, Councilmember, Mark Ross Councilmember, and Rob Schroder, Mayor, Absent: Michael Menesini, Vice Mayor.

6. City Manager Comment(s)/Update(s)/Report(s).

City Manager Phil Vince reported that as of today, the State still has not passed a budget. There was brief discussion among the Council of other State legislative news.

7. Chief of Police Comment(s)/Update(s)/Report(s).

No comments made.

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

### **CITY COUNCIL**

8. City Council Comments.

Councilmember Janet Kennedy encouraged the public to attend the 4th of July celebration downtown beginning with a Pancake Breakfast at the Oddfellows Hall at 8:00 a.m. She also congratulated Dr. Jeff Smith, recently named as the new County Administrator for Santa Clara County.

Councilmember Lara DeLaney requested staff to develop a "fee waiver program" for 2 to 4 years to give incentives to owner occupied housing in the downtown and to businesses. She further indicated that staff review the costs for such a program in lost revenue vs. implementation of the downtown specific plan, to which the Council agreed.

Councilmember Mark Ross wished all a safe and happy 4th of July.

Mayor Schroder announced that the July 4<sup>th</sup> Pancake Breakfast had been cancelled, but the celebration will begin with a parade at 10:00 a.m. with events and booths in the Main Street Plaza, and end with fireworks at sunset (around 9:00 p.m.) at the waterfront.

## **ADJOURNMENT**

Adjourned at 8:45 p.m. then to a Regular Meeting on July 15, 2009 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 – 9/2/09