

I. CALL TO ORDER

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

** Vice Mayor Menesini arrived at 6:25 p.m.*

II. CLOSED SESSION

- A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION Significant exposure to litigation pursuant to Subdivision (b) of Section 54956.9: One potential case.
- B. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION pursuant to Subdivision (a) of Section 54956.9. Name of case: Martinez Fair and Responsible Growth Coalition v. City of Martinez, Case No. N09-1719.

III. PUBLIC COMMENT (*Limited to Closed Session Items*)

There being no comments, the Council adjourned to closed session in the City Manager's Office.

RECONVENE - PLEDGE OF ALLEGIANCE - ROLL CALL

Mayor Schroder reconvened the meeting at 7:00 p.m. in the Council Chambers. He reported that two closed sessions were held: 1) regarding anticipated litigation pursuant to subdivision (b) of Section 54956.9, one potential case; and direction was given to legal counsel; and 2) Existing litigation pursuant to subdivision (a) of Section 54956.9, name of the case is Martinez Fair Responsible Growth Coalition v. City of Martinez; Assistant City Attorney Veronica Nebb stated that the Council did by unanimous vote authorize their office to defend the City. There was nothing else reported.

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

EXCUSED: None.

ABSENT: None.

PRESENTATION(S)/PROCLAMATION(S)

- A. Proclamation proclaiming "National Hospice Palliative Care Month," November 2009.

The Proclamation was presented to Peggy Hernandez.

Ms. Hernandez thanked the Council and the public for their continual support. She noted that no one is ever turned away from hospice care based on financial hardship. She said she hoped to see everyone on November 21st on Morello Avenue at 5:00 p.m. for the annual lighting of the Tree of Lights, which serves as a fundraiser for hospice care.

Mayor Schroder added that until someone needs hospice, it is hard to understand everything they offer.

PUBLIC COMMENT (COMPLETE SPEAKER CARD AND GIVE TO CLERK)

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

Mike Alford expressed concerns about redevelopment debt, noting that he had information substantiating his statements about the same at a previous meeting. He also spoke on the lack of support from staff and the Council towards bringing some companies into town that could help improve the air quality in Martinez such as Universal Fuel Options. Councilmember Ross stated that he has been in contact with the company, but before the City can do anything, they need to be certified by the State.

Tim Platt requested that Item #4 be pulled off the Consent Calendar for comment.

CONSENT CALENDAR

MOTION WAIVING READING OF TEXT OF ALL RESOLUTIONS AND ORDINANCES.

1. Motion approving City Council Minutes of October 7, 21, and 28, 2009. [M.Cabral]
2. Motion rejecting Claims against the City by Allison Santiago, #09-20; Nancy Taylor, #09-23; and Dennis Franco/State Farm Insurance, #09-24. [M.Cabral]
3. Motion approving Check Reconciliation Registers dated 10/22/09 and 10/29/09. [C.Spinella/02.01.01]
5. Resolution No. 110-09 accepting bids for the 2009 Water Line Replacement Project and awarding the construction contract to K.J. Woods Construction Incorporated. [T.Tucker/15.07.00]

Councilmember Ross requested Item #4 be removed from the Consent Calendar for the benefit of the public.

Mayor Schroder opened and closed public comment on Items #1, 2, 3 and 5 of the Consent Calendar, with no speakers coming forward.

On motion by Lara DeLaney, Councilmember, seconded by Michael Menesini, Vice Mayor, to approve Items #1, 2, 3, and #5 of the Consent Calendar. Motion unanimously passed 5 - 0.

4. Motion approving an Agreement with Richfield Development relating to the Tolling of Time to file legal action regarding the Alhambra Highlands Subdivisions and processing of resubmitted applications relating thereto; and authorizing the Mayor to execute same.[V.Nebbs/13.7244]

Mayor Schroder opened public comment on the item.

Tim Platt reviewed some of the history of the project, going back to the 1990s. He felt the developer does not merit any special favor from the City. He was especially concerned about the lack of environmental review by the public, the proposed waiver of fees, and the proposed fee level being set at the 1990s level, rather than current fee rates.

Mayor Schroder noted that this agreement does not guarantee anything nor approve any project, but is only an agreement to process an application. Mr. Platt pointed out a specific statement regarding environmental review.

Bill Schilz cited a reference in the proposed agreement, whereby fee levels are set at the level in place when the application was originally approved in the early 1990s. He asked if any calculation has been made about the amount of money the City is giving up in agreeing to that.

Alicia Guerra (Briscoe, Ivester, and Bazel) spoke on behalf of Richfield Development. She discussed efforts over the last six years to work with the State to lessen the environmental impacts. She noted that after State action, the public will have access to the information and be allowed to comment through the normal permitting process. She stated that no conclusion has been made yet as to the efficacy of the environmental impacts. Regarding the Developer Impact Fees, she noted that the fees in place in the 1990s were greater than the current fee levels. She did indicate that the application fees should not have to be paid again, since this is a resubmittal of an earlier application. She clarified that the purpose of this agreement is solely related to the processing of the application going forward.

Councilmember DeLaney asked why the effective date of the agreement is August 13, 2009. Ms. Guerra said it was based on the fact that the City Attorney wanted the agreement to supersede the date of the last letter Richfield sent to the City; the effective date of the agreement will actually be the date it is signed by both parties. Assistant City Attorney Veronica Nebb clarified that the date of the agreement was to ensure there is no gap period between the expiration of the earlier approvals and the current processing of the application.

Mike Alford asked whether Councilmembers who have received campaign contributions from Richfield should recuse themselves from the vote. Mayor Schroder clarified that receiving campaign contributions does not create a conflict of interest, according to State law.

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

Ms. Nebb confirmed that this processing agreement does not approve any environmental mitigations; the project will go through the normal environmental review and public comment/public hearing process, including hearings at the Planning Commission and City Council level. She also explained that the developer has had funds on deposit with the City for many

years, from which the City has been deducting processing fees for staff time, City Attorney time, etc., a standard practice for complex applications. She added that this agreement only stipulates that those funds will continue to be used until they are depleted, and at that point, there will be further discussion as to whether more funds are needed.

Regarding the Developer Impact Fees, Ms. Nebb explained that normally a developer is only required to pay the fees in effect at the time the application is deemed complete, in this case in 1990. She noted, however, that when the extension was granted in 1999, the developer agreed to pay fees based on 1999 levels, and the City is agreeing to that in order to allow the public to have another opportunity to review the project before a final decision is made. She acknowledged that there is a potential loss of fees compared to what would be charged if the current project had lapsed or been denied, and another application submitted. She noted that this is a compromise agreement, allowing the City to avoid a litigation battle relative to the old processing of the application, and the costs associated with litigation would not be recoverable by the City.

Councilmember Kennedy asked how long the 1999 fees would apply, and Ms. Nebb clarified that State law says that the fee levels that apply to an application are those in effect at the time the application is deemed complete.

Vice Mayor Menesini noted that some believe that this map has expired, along with any entitlements; but that is a matter of some dispute and could be challenged in court with no guarantee that the City would prevail. He agreed that this proposal represents a compromise that will allow the City and the public to review the application again based on current circumstances, and the developer will pay for the processing. He was confident that the concerns of the public and the City will be adequately addressed in the process.

On motion by Lara DeLaney, Councilmember, seconded by Michael Menesini, Vice Mayor, to approve an Agreement with Richfield Development relating to the Tolling of Time to file legal action regarding the Alhambra Highlands Subdivisions *as revised by the City Attorney*, and processing of resubmitted applications relating thereto; and authorizing the Mayor to execute same. Motion unanimously passed 5 - 0.

PUBLIC HEARING(S)

CITY MANAGER

6. Letter of Intent supporting Rachael Ford's Delta Estuary/Zocchi. [P.Vince/5.23.00]

Mayor Schroder introduced the item, reviewing the proposal by Rachael Ford for a Delta Research Institute. City Manager Phil Vince mentioned that Exhibit A of the agreement had been omitted from the Council packets but was on the dais before them.

Mayor Schroder asked that the Council approval include authorization for him to attach a letter reviewing the process and the final vote on the item.

Councilmember DeLaney indicated she was fully supportive of the project, but she noted that the Board of Supervisors Transportation, Water and Infrastructure Committee had a presentation from the Delta Science Center with a proposal that overlaps this one somewhat. She expressed hope that there is some outreach to them to ensure that the two organizations avoid duplication of effort. Ms. Ford explained that the aims of the Delta Science Center are focused more on restoration of the marsh, habitat and trails in the immediate area of their property. She explained that the Research Institute she proposes includes onsite research and consideration of the overall delta. She did not think there would be much duplication, although she acknowledged their work would be valuable as well.

Mayor Schroder opened public comment on the item.

Mike Alford expressed his support for Ms. Ford's proposal as well, agreeing that the work of the Delta Science Center would not be the same. He noted that the companies he referred to earlier could be a good resource for the Research Institute also. He asked where the Alhambra Creek ends and where the bay begins, and what is meant by the word "estuary" in the proposal. He noted that the location of the estuary is ideal for a future ferry site.

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

Councilmember Kennedy said she thought this is a very exciting prospect, and she would support a letter of intent to help move the project along. She also noted that including the estuary makes for a broader scope for the research.

Councilmember Ross said he was intrigued by the project as well, adding that he had often wondered why there was so little interest in what is in the water here.

Vice Mayor Menesini concurred with Councilmembers Kennedy and Ross that this is an exciting proposal, and the agreement will not limit the City in any way. He noted that a research institute will be very helpful in analyzing changes to the bay as the environment changes.

On motion by Michael Menesini, Vice Mayor, seconded by Lara DeLaney, Councilmember, to approve a Letter of Intent supporting Rachael Ford's Delta Estuary/Zocchi and authorize the Mayor to submit a letter. Motion unanimously passed 5 - 0.

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

City Manager Phil Vince reported that the Parks, Recreation, Marina, and Cultural Commission had reviewed the Measure H designs for the renovation for the pool and library, and that staff is working very hard to keep on schedule.

Dave Scola, Public Works Director, indicated a full update would be given to the Council on November 18th. He agreed things were going very well.

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

Chief Simonetti stated that the City has received the pharmaceutical bin, and it is ready to be installed. He indicated that staff is waiting for federal approval before the program can actually begin.

APPOINTMENTS TO COMMISSIONS AND/OR AGENCIES

CITY COUNCIL

9. Discussion of and Direction to staff on consideration of City Development Fee Waivers/Deferrals for various types of projects in the Downtown Specific Plan Area.
[K.Majors/02.02.09]

Assistant City Manager Karen Majors presented the staff report. City Manager Phil Vince discussed options that his office has considered in working with individual developers in specific circumstances. He clarified that none of the concessions staff has recommended represent favoritism or violate legal standards.

Mayor Schroder asked, and Mr. Vince confirmed that staff is recommending consideration of ways that the City can stimulate development rather than simply waiting for the economy to improve.

Councilmember DeLaney said she was disappointed with the staff report because it didn't reflect her intent or goals, specifically promoting development in the downtown through the use of permit streamlining, fee waivers, and fee deferrals for a limited period of time. She expressed concern that the City do whatever it can to be competitive in promoting development during these tough economic times.

Mayor Schroder indicated he fully agreed that the City needs to think creatively to encourage more development in the downtown, although he noted that the housing market will take more time to recover than retail or commercial development. He also agreed that it would be good if Martinez sets the standard, rather than watching all the business go elsewhere.

Councilmember Ross agreed that something needs to happen to stimulate development in the downtown. He was concerned, however, about prevailing wage loopholes. He also thought that to be totally successful, Martinez needs to decide how it wants to represent itself in the region.

Vice Mayor Menesini agreed the City needs to strengthen its community development efforts. He thought projects that utilize public/private collaboration will be most successful, such as the proposed Delta Research Institute. At the core of any successful effort, he thought there needs to be some public benefit. He thanked Councilmember DeLaney for bringing the issue forward.

Councilmember Kennedy asked why limit the stimulus efforts to the downtown, how projects will be qualified, and whether there are current provisions for requesting fee waivers. She was also concerned that the City not assume too much of the burden financially to allow a private

individual to benefit economically. She asked for a more complete analysis of the potential cost to the City and that there be clear standards for granting any waivers.

Vice Mayor Menesini acknowledged that some of the City's most successful projects have not been in the downtown, but he agreed that no area should be excluded.

Councilmember DeLaney reiterated that her intent in bringing this issue forward was to find ways to implement the goals of the Downtown Specific Plan more fully, specifically in bringing owner-occupied housing and retail development.

Mayor Schroder suggested the item be referred to the Economic Development Ad Hoc Committee (Councilmembers DeLaney and Kennedy) and staff to work on a program/strategy, and bring recommendations back to the Council.

Mayor Schroder opened public comment on the item.

Mike Alford suggested contacting the companies he mentioned earlier, to see what they can bring to the table. He agreed with Councilmember Kennedy that it shouldn't be limited to the downtown.

Seeing no further speakers, Mayor Schroder closed public comment.

10. City Council Comments.

Councilmember Mark Ross announced the beginning of the wintertime Spare the Air season and urged the public not to burn wood on those nights, due to the harmful exposures from wood smoke.

Vice Mayor Michael Menesini thanked Mayor Schroder for all the extra Halloween candy he gave his girls.

Mayor Rob Schroder shared his visit at a remodeled bar/lounge in Benicia, with each page of the menu having some historical information; and on the Martini page it had the history of the Martini which referenced Martinez. He also announced the Veterans Memorial Ceremony on November 11th at 10:00 a.m. at the Alhambra Cemetery; and at 11:00 a.m. at the All Veterans Monument, in memory of Chuck Evans, longtime member of the Veteran's Commission who recently passed away.

ADJOURNMENT

The meeting adjourned at 8:50 p.m. to a Regular Meeting on November 18, 2009, 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 – 11/18/09