

**CALL TO ORDER - Joint City Council and Planning Commission Study Session.**

Mayor Schroder called the meeting to order at 5:42 p.m.

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

COUNCIL EXCUSED: Michael Menesini, Vice Mayor.

PLANNING COMMISSION PRESENT: Donna Allen, Harriett Burt, Rachael Ford, and Frank Kluber.

PLANNING COMMISSION EXCUSED: Jeff Keller.

PLANNING COMMISSION ABSENT: AnaMarie Avila Farias, Lynette Busby, and Michael Marchiano.

HOUSING ELEMENT TASK FORCE: Dave Johnson and Nancy Schaefer.

A. General Plan Housing Element Update—Discussion on draft of the updated Housing Element.

The City Council and Planning Commission conducted a study session on the *discussion draft* of the Updated Housing Element.

Terry Blount, Planning Manager, Anjana Mepani, Associate Planner, and Jeff Baird with Baird & Driskell Community Planning, provided a brief overview and PowerPoint presentation of the Draft.

The City Council and Planning Commission discussed the Draft, asked questions, and gave feedback and comments regarding the document. With consensus of the Council and the Commission on revisions to the document, staff was directed to submit the Draft to the California Department of Housing and Community Development as required under Housing Element law.

B. Other comments. (Public comments restricted to items listed on the Agenda)

Paul Wilson stated that the Housing Element focused on the downtown which seems to be segregating low income on one side (downtown), and moderate housing on the other side of Martinez.

Mike Alford agreed with Mr. Wilson's comments adding that when you bring Section 8/low income housing into an area, crime goes up.

Phillip Ciaramitaro recommended that the City hire a sustainability expert, and that we lower our emissions, and would like to see more balance for a better quality of life.

There being no further business, the meeting adjourned at 6:54 p.m.

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

Mayor Schroder called the meeting to order at 7:19 p.m.

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

**EXCUSED:** Michael Menesini, Vice Mayor.

**ABSENT:** None.

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

### **A. League of California Cities—Update on State Budget.**

Eric Figueroa, Regional Manager for League of California Cities, presented a PowerPoint presentation on the “State of Cities in California.” He reviewed responsibilities at the City, County and State levels and options to reform the financial situation. He also reviewed the State’s budget and its impact on cities. He concluded with a review of the League’s Initiative “Local Taxpayer, Public Safety and Transportation Protection Act of 2010” and urged Council support.

Councilmember DeLaney and Councilmember Ross clarified with Mr. Figueroa the impact of the Initiative on Proposition 1A.

Councilmember Kennedy thanked Mr. Figueroa for his presentation and affirmed the importance of the Initiative and of holding the State responsible for its actions. Mayor Schroder stated that a resolution by the Council supporting the Initiative was a possibility.

## **PUBLIC COMMENT**

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

Mayor Schroder opened the item for public comment.

Mike Alford spoke on Shell’s release incident. Mr. Alford reiterated his concern in bringing a group called "Enforce" to Martinez; a firm who is willing to clean up Martinez and help develop and bring money into Martinez; he requested staff to contact them. Mayor Schroder suggested that Mr. Alford invite them to do a presentation to Council.

Paul Wilson stated that Shell Oil Company releases 4.5 million metric tons of carbon each day which hurts the environment and the public. He stated that he would be more than happy to pay a fine for lighting his pellet stove, if Shell is charged, at the same rate, for releasing carbon into the air.

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

## CONSENT CALENDAR

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

*On motion made, second, and carried, Council added an Urgency item: Rejecting Claim against the City by Shiba Ahmadi, Claim #09-28 to the Consent Calendar.*

1. Motion approving City Council Minutes November 18, 2009. [M.Cabral]
2. Motion rejecting Claims against the City by Luz I. Bermudez, Claim #09-30; and Shiba Ahmadi, Claim #09-28.[M.Cabral]
3. Motion accepting Check Reconciliation Registers dated 11/20/09, 12/03/09, and 12/10/09.[C.Spinella 2.1.01]
4. Motion accepting AB 1600 Report (Impact Mitigation Fees) for fiscal year ending June 30, 2009.[C.Spinella/02.01.00 & 02.09.00]
5. Resolution No. 112-09 accepting the Unclaimed Money/Outstanding Check Policy. [C.Spinella/02.01.00]
6. Resolution No. 113-09 accepting the Building Demolition 350 & 360 Ferry Street Project per contract documents, and instruct the City Clerk to file a Notice of Completion. [D.Salts/5.23.00]
7. Marina Vista Streetscape Project: [T.Tucker/12.04.38]
  - A. Resolution No. 114-09 accepting bids for the Marina Vista Streetscape Project, and awarding the construction contract to Bay Cities Paving and Grading Inc., and allocating \$225,000 of Traffic Mitigation funds and transferring \$650,000 from Account No. C1026 to Account No. C1025; and
  - B. Resolution No. 115-09 authorizing the City Manager to amend the consultant services agreement with Bellecci Associates for the design of the Marina Vista Streetscape Project (C1025) to include construction support and surveying in an amount not to exceed \$200,000.

Councilmembers DeLaney and Kennedy indicated they had a question about the minutes of November 18, 2009.

On motion by Lara DeLaney, Councilmember, seconded by Mark Ross Councilmember, to approve Items #2, #3, #5, #6, and #7A and B of the Consent Calendar. Motion unanimously passed 4 - 0.

Councilmember DeLaney clarified that she was excused on November 18, 2009 and suggested that the minutes be amended to reflect that.

On motion by Mark Ross Councilmember, seconded by Lara DeLaney, Councilmember, approve City Council Minutes for November 18, 2009 as amended. Motion unanimously passed 3 - 0. Yes: Janet Kennedy, Councilmember; Mark Ross, Councilmember; Rob Schroder, Mayor. Abstain: Lara DeLaney, Councilmember; Absent: Michael Menesini, Vice Mayor.

Regarding Item #4, Councilmember DeLaney commented on funds from the childcare impact fees and asked staff if there were any projects planned to spend those funds. She also asked about the unspent balance from the cultural facilities fees and suggested that some of them be spent on the Willows Cabaret Building, to be considered later in the meeting.

On motion by Janet Kennedy, Councilmember, seconded by Lara DeLaney, Councilmember, accept AB 1600 Report (Impact Mitigation Fees) for fiscal year ending June 30, 2009. Motion unanimously passed 4 - 0.

## **PUBLIC HEARING(S)**

### **CITY MANAGER**

8. Willows Theatre (Campbell Lease extension) Consider the adoption of the attached resolution (Attachment 2) approving the following actions: [K.Majors/9.12.07]
  - A. Appropriating \$250,000 in undesignated fund balance to fund the 5 year extension of the of the Lease Agreement with Bisio for the Campbell Theater; and
  - B. Accepting the commitment from the Willows Theater Board to extend the Sublease Agreement and to pay for certain Campbell Theater rent increases; and
  - C. Authorizing the City Manager to negotiate amendments to the 2004 Sublease Agreement with the Willows Theater Board to effectuate the sublease extension and to incorporate payment of CPI rent increases.

Assistant City Manager Community/Economic Development Karen Majors presented the staff report. She discussed the City's commitment to supporting the fine arts and its past actions in that area. Ms. Majors reviewed the City's history with the Willows Theatre and the benefits the Theatre brings to the City; and explained the effects of the Resolution.

Councilmember DeLaney clarified with Ms. Majors the number of lease extensions allowed by the lease agreement, and the provisions in the lease agreement for the City's obligations if the Theatre company fails to continue performing. She also requested a copy of the letter authorizing the Company to exercise the lease option.

Chuck Lewis, Willows Boardmember, reviewed the Theatre's plans for the 2010 season and the progress in consolidating the Company in Martinez. He also explained the limits of the City's obligation in the planned lease extension.

Councilmember DeLaney requested an indication of the Company's financial condition.

Rich Elliott, Willows Design Director, explained the problems the Company had been having and their success in creating a plan to manage their debt. He also mentioned the unexpected support of the Concord theatre's former customers.

Mayor Schroder opened the item for public comment.

Phillip Ciaramitaro mentioned his concern that the profits enabled by the City might go to another town in the future, and asked about the possibility of the Company becoming self-sufficient in the future. He also requested more support for other arts in the City. Mayor Schroder clarified that the Company was committed for five years. Mr. Lewis mentioned the benefits of the improvement of the Amphitheatre.

Marta Van Loan requested that more concrete financial information be made available to the public and expressed her concern that no support was offered to other cultural endeavors in the City.

Kristin Henderson asked why the City did not simply buy the building and reiterated Mr. Ciaramitaro's concern for other arts in the City. She also expressed concern that money handled locally might be misused. Mayor Schroder stated that the City had entered into negotiations with the owner of the building and the owner did not wish to sell, but that the possibility might be pursued at a later time.

Paul Wilson asked for details on how much the Company owed to the City and if progress was being made on paying it back. He also expressed his concern about the possibility of the Company's failure.

Mike Alford asked if other cultural or educational projects would be allowed to perform in the Theatre.

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

Councilmember Kennedy reviewed the discussions the Ad Hoc Committee and staff had with the Company and the issues involved with the lease extension. She mentioned the support the Company had received from the residents of the area and from restaurant owners. She expressed her trust in the Company's commitment to the City.

Councilmember Ross affirmed the purpose of promoting theatre in downtown and noted the success of the Company in comparison to other projects of the City. He also noted the City's success in comparison to other cities in the area and discussed the history that the City had in providing cultural events in the area. He confirmed the possibility that the building could be sublet to another company in the event of the Willows Company fails.

Councilmember DeLaney expressed her disappointment that the commitment to extend the lease had already been made without necessitating the approval of the Council. She reiterated that more concrete details about the finances of the Company should be required. She also commended the City's support for cultural development in downtown, and expressed her hope for the success of the Company.

Mayor Schroder expressed his appreciation that the Company had made an agreement with the City instead of moving to Danville. He reminded the Council and public that most small theatre companies, and other art programs, are subsidized by the government in some way. He expressed his trust in the Company's commitment to its growth and to the City.

Councilmember DeLaney expressed concern about the use of General Fund money to subsidize the Company and reiterated her suggestion that funds from the Cultural Facility Fees be used to offset a portion of the cost of the lease extension, which is being taken from reserves.

Mayor Schroder asked staff what the fees had been used for in the past. City Manager Vince stated that usually the fees had been used for one-time costs rather than ongoing commitments. City Attorney Nebb stated that typically the decision would have been made through a study done when the funds were collected, which would identify facilities on which the funds could be used. She suggested that staff could research what process would be needed to use the funds.

Councilmember DeLaney suggested that the use of the funds be discussed at a future meeting. She also recommended that on an annual or semi-annual basis, the Willows Theatre be required to report financial conditions to the City, and City Attorney Nebb agreed that that provision could be included in the terms of the sublease, as well as the authorization to execute an extension by the Council. Mayor Schroder agreed that these provisions could be added to the Resolution.

On motion by Lara DeLaney, Councilmember, seconded by Mark Ross Councilmember, to approve Resolution No. 116-09 Appropriating \$250,000 in undesignated fund balance to fund the 5 year extension of the of the Lease Agreement with Bisio for the Campbell Theater; *and to review whether or not Cultural Facility Fees can be used to offset a portion of the \$250,000 from the undesignated fund balance, to a level that will be discussed at a future Council meeting; and accepting the commitment from the Willows Theater Board to extend the Sublease Agreement and to pay for certain Campbell Theater rent increases; and authorizing the City Manager to negotiate amendments to the 2004 Sublease Agreement with the Willows Theater Board to effectuate the sublease extension and to incorporate payment of CPI rent increases; and the Willows be required to report on a semi-annual or annual basis financial information; and include an additional extension to include economic provisions in the sublease terms including the authorization to execute an extension by the Council.*

Motion unanimously passed 4 - 0.

9. Martinez Marina: [M.Wierschem&K. Majors/14.01.00]
  - A. Approve extension of the Marina Management Lease agreement with Almar for operation and management of the Martinez Marina for one year (January 1, 2010 to December 31, 2010).
  - B. Adopt Resolution authorizing the City Manager to negotiate and execute an agreement with the Department of Boating and Waterways for the City to receive reimbursement of costs via the Abandoned Watercraft Abatement Grant.

- C. Adopt Resolution authorizing the City Manager to negotiate and execute a consultant services contract with AnchorQEA to perform engineering services for the Marina Reconstruction Project not to exceed \$200,000.
- D. Approve renewal of the land lease agreement with the Yacht Club for a year (January 1, 2010 to December 31, 2010).

Recreation Manager Wierschem presented the staff report. She reviewed the staff recommendations regarding the Marina and the benefits of those actions. She also described the Marina's recent areas of progress, including the progress made with the State Lands Commission Land Lease, the progress made by the management of the Marina, and the progress made in the permitting process. She reviewed the current financial state of the Marina.

Mayor Schroder commended the progress being made with the Marina, and requested a timeline regarding funds and construction.

Tom Hogan, Martinez Marina LP, described the phases of construction and the responsibilities of both the City and the Marina.

Councilmember DeLaney expressed her appreciation of staff's work and of the progress being made. She suggested attempting to acquire the land from State Lands. She also mentioned that improvements should be made on the landside of the property as well as the waterside.

Councilmember Ross also expressed his appreciation of the progress being made at the Marina, in light of the difficulties involved. He expressed his hope for the success of the Marina. Councilmember Kennedy agreed and also commended the staff for their work.

Mayor Schroder opened the item for public comment.

Paul Wilson expressed his disappointment with the length of the project, stated his belief that it would never be finished, and suggested that the property be turned over to East Bay Regional Park. Mayor Schroder responded that the property is now making progress financially.

Mike Alford agreed that it was unwise to continue spending the money and the time when no progress was being made.

Phillip Ciaramitaro stated that the restroom facilities at the Marina were inadequate and suggested different ways to make the restrooms more available.

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

Mayor Schroder also expressed his appreciation of the staff's work on the project. He agreed that he had been frustrated by the delays and challenges involved, but called attention to the progress being made, especially in negotiations with the State Lands Commission. He stated that the East Bay Regional Parks District would not want management of the Marina and would let the property return to its natural state.

In response to Councilmember DeLaney's question regarding the salvage value of the abandoned vessels at the Marina, Tim Leathers, Almar, indicated that the money received from salvaged parts/boats are used to pay for the removal of the vessels.

On motion by Lara DeLaney, Councilmember, seconded by Mark Ross, Councilmember, to approve extension of the Marina Management Lease agreement with Almar for operation and management of the Martinez Marina for one year (January 1, 2010 to December 31, 2010); and adopt Resolution No. 117-09 authorizing the City Manager to negotiate and execute an agreement with the Department of Boating and Waterways for the City to receive reimbursement of costs via the Abandoned Watercraft Abatement Grant; and adopt Resolution No. 118-09 authorizing the City Manager to negotiate and execute a consultant services contract with AnchorQEA to perform engineering services for the Marina Reconstruction Project not to exceed \$200,000; and renew the land lease agreement with the Yacht Club for a year (January 1, 2010 to December 31, 2010) . Motion unanimously passed 4 - 0.

10. 630 Court Street: [K.Majors/05.15.00]

- A) Approve the request from Goldenberg and Associates to extend the time limits in the Purchase and Sale Agreement for an additional 5 months and to modify their development proposal.
- B) Based upon the input and recommendation of the City Council Subcommittee on 630 Court Street: deny the request, and direct staff to continue to work with Contra Costa County staff to control 610 Court Street so that it can be added to the development plan for this catalyst corner and to solicit a new RFP that includes both properties.

Assistant City Manager Majors presented the staff report. She reviewed the history of the property and the proposal by Goldenberg and Associates. She discussed the possibility of adding 610 Court Street to the project. She also described the current requests of Goldenberg and Associates and the costs associated. She reviewed the discussion with the Subcommittee and concluded with the Subcommittee's recommendations regarding the current proposal.

Howard Goldenberg, Goldenberg and Associates, reviewed the history of their work on the property and described the time and money spent on the project. He also expressed his personal commitment to the success of the project. He described the difficulties caused by the current economy and the work needed on the property. He expressed the company's desire to continue working on the project. He also reviewed the benefits of the current proposal, the necessity of more time to let the economy improve, and the drawbacks of giving up on the project.

Mayor Schroder agreed that any progress would take time and stated the importance of allowing the market to stimulate the opening of the restaurant. He stated the importance of getting the best use of the property and his desire to let the project go and wait until a better time in light of the recession.

Councilmember Ross asked for the reason behind the change in staff's recommendation.

Councilmember DeLaney explained that there had been no recommendation originally, but the presentation of the facts convinced the Subcommittee that the current proposal was not the best choice. She expressed her desire to continue with the original vision and possibly find another developer who could manage in the current financial conditions.

Mr. Goldenberg responded that with an extension, his company was capable of following through with a restaurant. He added that his company was strong financially, but pointed out that they would not be able to obtain a loan or a tenant to use the property in the current economy.

Councilmember Kennedy expressed the Council's commitment to the original vision and the importance of using 610 Court Street as well. She expressed her desire to make the restaurant the best possible and not settle for less due to the economy. Mr. Goldenberg reiterated his ability to follow through with the restaurant plan, given an extension.

Councilmember Ross stated that the ability to find a tenant was of great importance and pointed out that there was currently little more interest in office space than for restaurant space. He expressed his willingness to allow the extension. Mr. Goldenberg expressed his gratitude and reiterated his commitment to the project.

Councilmember Ross also called attention to the difficulty of finding another developer.

Councilmember DeLaney stated that there had been many other interested developers and that the location was very good. Councilmember Ross suggested allowing the extension and pursuing 610 Court Street at the same time, and reviewing the new situation and possibilities at the end of the extension.

Mr. Goldenberg expressed his willingness to cooperate with staff throughout the extension, but indicated his doubt that the economic situation would have changed by the end. He also stated that there was no loss to the City by allowing the extension.

Councilmember DeLaney stated her conviction that the property and the original vision were worth the wait. Mayor Schroder agreed, but pointed out that the vision may not be congruent with reality. Councilmembers DeLaney and Kennedy debated with Mayor Schroder the merits of continuing with the original plan or adjusting it to meet the current economy.

Ernie Guerrero, Goldenberg and Associates team, reminded the Council of the financial difficulty associated with developing a restaurant at the current location. Councilmember Kennedy pointed out that the location was the same two years ago, when the project was initiated, and these things should have been considered at the beginning. Mr. Guerrero stated that any other developer who wanted to put in a restaurant would have to go through the same process and spend the same amount of money. Councilmember Ross stated that the high cost to develop a restaurant had not changed in recent years, and it should have been anticipated. However, he reiterated his support for a short extension. He also expressed a desire to improve the entire plaza in order to attract more businesses and customers.

Unidentified speaker, Goldenberg and Associates team, brought up the use of redevelopment agencies and incremental financing in order to make projects more feasible for developers and bridge the gap between the reality and the vision. Councilmember Ross agreed but stated that it was not possible. He (unidentified speaker) pointed out that other cities spent a great deal of money to make their visions reality. He also stated that if the property was left empty for an extended period of time, it would not be doing anything for the City. Councilmember DeLaney agreed that the situation was difficult, but stated her unwillingness to give up the vision and pointed out that the building is not currently empty. She also stated that the Council was aware that other improvements to the area would be necessary to subsidize the restaurant. He (unidentified speaker) pointed out that that necessity was the reason behind the decision to pursue 610 Court Street.

Mayor Schroder clarified that the vision of a restaurant was still the goal for everyone, but that the difficulty was with the timeline and financing. Mr. Goldenberg agreed and suggested that a year-long extension would be even better than a five-month extension to ensure that the project would be on-track by the end. Councilmember DeLaney expressed her support for a five-month extension so that research could be done into 610 Court Street. Councilmember Ross agreed and pointed out that the Council would then be able to decide on the next step after progress was made.

Mayor Schroder opened the item for public comment.

Paul Wilson asked why purchasing and developing properties was a function of the City. He expressed disappointment with the time and money spent on the project.

Philip Ciaramintaro asked, and Building Director Scola answered, a question about the timeline of retrofitting properties. Mr. Ciaramintaro suggested retrofitting the building immediately so that the building could be used immediately by the Arts Association and begin developing interest in the area.

Mike Alford suggested other locations for a restaurant and other uses for the building at 630 Court Street. He also expressed his disapproval for the five-month extension.

Stanley Toumacos affirmed Councilmember DeLaney's comments. He agreed that the project was taking too long and that another developer should be found who could finance the project. He suggested that it was unwise to purchase the other property at 610 Court Street when the building at 630 Court Street could not be used.

An unidentified speaker repeated an earlier offer to operate a restaurant at the site, if the City is interested.

Kristen Henderson suggested that the developers should have known about the costs beforehand. She made other comments about the property and about 610 Court Street. She also made other suggestions to use the property at this time, including a coffee shop.

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

Mayor Schroder agreed that the Council did not want to rush to get something done on the property, and that the property was important enough to do it right. He agreed that Goldenberg and Associates had spent a lot of time and money on the project. He expressed his support for a five-month extension to acquire more information, and his desire to spend more time improving the area.

Councilmember Ross suggested that staff pursue a strategy to acquire 610 Court Street.

On motion by Mark Ross Councilmember, seconded by Lara DeLaney, Councilmember, Approve the request from Goldenberg and Associates to extend the time limits in the Purchase and Sale Agreement for an additional 5 months *and to modify their development proposal and direct staff to pursue the acquisition or strategy for 610 Court Street.* Motion unanimously passed 4 - 0.

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

No comments made.

12. Chief of Police Comment(s)/Update(s).

No comments made.

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

### **CITY COUNCIL**

13. Consider existing practice to seek and apply for available Grant funding without formal Council authorization unless the grant requires Council approval or matching funds from the City; and direct the City Manager to regularly and on a timely basis inform the City Council regarding major grant applications and initiatives and report.  
[M.Chandler/43.03.00]

Councilmember DeLaney stated her opinion that the Council should be as involved as possible in the grant process and pointed to other cities' practices.

Mayor Schroder suggested that the Council should be informed, but that staff would not need their approval for smaller grants. The Council discussed with staff the cut-off point at which the Council's approval would not be needed. Councilmember Kennedy suggested that a weekly grant log be set up so that the Council would not miss deadlines or opportunities.

The Council requested that they be well-informed prior to a grant being pursued and directed staff, by way of a report, to provide a grant log including status and deadlines.

14. Resolution approving appointment of Lara DeLaney as Vice Mayor for the year 2009-2010. [M.Cabral/41.02.01]

On motion by Rob Schroder, Mayor, no second required to approve Resolution No. 119-09 approving appointment of Lara DeLaney as Vice Mayor for the year 2009-2010. Motion unanimously passed 4 - 0.

15. City Council Comments.

Councilmember Janet Kennedy wished all Happy Holidays. She thanked staff for a very productive year and encouraged the public to donate to charity, food bank, etc. Councilmember Kennedy announced that Santa Claus will be at Village Oaks Shopping Center this Saturday and Sunday, and she encouraged the public to come downtown on New Year's Eve for activities and music.

Councilmember Mark Ross also wished all Happy Holidays; and gave a year end review. He expressed his hope that next year many things would come to fruition.

Mayor Rob Schroder expressed appreciation to City employees for all their work and agreed with the hopes for next year. He wished everyone Happy Holidays, and wished Mike Alford a Merry Christmas. Mayor Schroder thanked Main Street, Chamber, and the City's Recreation staff for the successful snow park, parade, and tree lighting.

## **ADJOURNMENT**

Adjourned at 10:32 p.m. to a Regular City Council Meeting on January 6, 2010, 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—1/20/10