

CALL TO ORDER

Mayor Schroder called the meeting to order at 5:50 p.m. in the Council Chambers with all members present except Councilmember Menesini and Ross.

CLOSED SESSION

- A. PUBLIC EMPLOYEE APPOINTMENT pursuant to California Government Code Section 54957: Title: Chief of Police.
- B. CONFERENCE WITH LEGAL COUNSEL--Existing Litigation pursuant to California Government Code section 54956.9(a). Name of Case: Ostrosky v. City of Martinez.
- C. CONFERENCE WITH REAL PROPERTY NEGOTIATORS pursuant to California Government Code Section 54956.8.
Property/Location: 865 Howe Road, Martinez.
Agency Negotiators: Philip Vince, City Manager; Dave Scola, Public Works Director.
Negotiating Parties: City of Martinez and CGT Associates.
Under Negotiation: Proposed property acquisition

PUBLIC COMMENT (Limited to Closed Session Items)

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

**Councilmember Ross arrived shortly after roll call.*

**Councilmember Menesini arrived at 6:20 p.m.*

RECONVENE- PLEDGE OF ALLEGIANCE - ROLL CALL

Mayor Rob Schroder called the meeting to order at 7:00 p.m. He reported that the Council met in closed session. With respect to Conference with Legal Counsel, Ostrosky v. City of Martinez, there was nothing to report as the item was on the agenda for this meeting. With respect to Conference with Real Property Negotiators, 865 Howe Road, direction was given to the City's negotiators; and with respect to Public Employee Appointment, Title: Chief of Police, Mayor Schroder announced that by unanimous decision the Council voted to appoint Commander Gary Peterson as the next Chief of Police.

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

PRESENTATION(S)/PROCLAMATION(S)

A. Proclaiming November 2010 as "National Hospice Palliative Care Month."

The Council presented the proclamation to Peggy Hernandez. Ms. Hernandez announced that Hospice of the East Bay will have a Tree Lighting throughout the County; Martinez' Tree Lighting will be on Saturday, November 20th at 5:00 p.m. on Morello Avenue, rain or shine.

Ms. Hernandez stated that there will be Toys for Tots drive as well; her grandson who will be celebrating his 11th birthday wanted to collect toys instead of receiving presents for his birthday.

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

Doug Stewart provided Martinez homeless statistics for the month.

Mike Alford stated he always thought he was the voice of the people; but the people have spoken and realize that the Council is the voice of the people. He further stated that it was time to work with the Council. Mr. Alford mentioned his frustration with people tearing off the candidate signs.

Marshall Cochrane requested to know information on the closed session item regarding 865 Howe Road, and wanted to know the benefits of the purchase. Mayor Schroder stated that there was no action being taken and whatever decision is made or transaction will be made in open forum.

Ann Cochrane stated that she was angry and disappointed in the mudslinging and the terrible attack against Kathi McLaughlin which was very unfair.

CONSENT CALENDAR

MOTION WAIVING READING OF TEXT OF ALL RESOLUTIONS AND ORDINANCES.

1. Motion approving City Council Minutes of October 6, 2010.
2. Motion accepting Check Reconciliation Register dated 10/21/10 and 10/28/10.

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

PUBLIC HEARING(S)

3. Public hearing to consider resolution reconsidering an appeal of the Planning Commission's denial of proposed lot line adjustment affecting an approximate 160 acre site located at 370 Lindsey Drive. Proposal would adjust boundaries between four existing lots, creating a new 4-lot configuration as proposed by applicant, ranging in size from 8.45 to 64.41 acres. Due to Court order, the City Council rescinded its previous denial of the appeal on September 15, 2010.

Vice Mayor DeLaney recused herself from the discussion. She congratulated Commander Peterson on his appointment and Mayor Schroder and Councilmember Menesini on their reelection and left the dais.

City Attorney Jeff Walter presented the staff report. He discussed the history of the application and the proposal. He also noted that the City Clerk's Office had that morning received from the applicant's a 240-page document that the Council had not had time to review, and so recommended that the Council not accept the document as part of the record, adding that he had suggested the applicant delay the hearing to after the first of the year and the applicant had declined. Mr. Walter discussed the details and the merits of the proposed resolution and presented staff's recommendation that the lot-line adjustment could be granted.

Mayor Schroder asked what action could be taken regarding the 240-page document, and Mr. Walter stated they could be included for the purposes of identification of the resolution, but not included as part of the record.

Scott Sommer, applicant's attorney, clarified that the applicant had not objected to a continuance, but to a continuance of two to three months. He stated that the City Clerk had received a 6-page letter and the 240-page document including the deposition of Mr. Phillips, and the January 2010 trial testimony of Mr. Phillips, and that these documents were to provide support for the facts stated in the letter, which showed that Mr. Phillips had not agreed not to develop the sites south of Christie Drive. He urged the Council not to include in the resolution a condition that these sites not be developed.

Councilmember Kennedy asked for a clarification regarding how the resolution would render the sites undevelopable, and Mr. Sommer pointed out a reference to the Alhambra Valley Specific Plan, which prohibits development south of Christie Drive. He also noted that City interpreted the Specific Plan differently in the case of the Mullage Property.

Mr. Sommer asked if the 6-page letter was entered into the record, and Mayor Schroder confirmed that it was.

Mayor Schroder opened the item for public comment.

Connie Chapman expressed confusion over the requirements of the Specific Plan and the desired development and asked the Council to take time to look over all the details in order to make an informed decision.

Eric De La Rosa also expressed some confusion about whether the development was prohibited north or south of Christie Drive. Mr. Walter stated that the Specific Plan's map of the applicant's property specifically allowed only four development sites north of Christie Drive, while Mr. Sommer's argument was that the text allowed for development anywhere on the property. Mr. Walter noted that the applicant's property has been seen as unique and that Mr. Phillips, the original owner, had stated in a letter that he did not intend to develop any of the property south of Christie Drive, which is why all development had been prohibited in those areas.

Mr. Sommer clarified that he did not say the applicant could build anywhere, because of the open space easement, and showed on a map of Mr. Phillips' the specific areas the applicant wanted to develop.

Councilmember Ross stated that the Council did not have any grudge against the applicant, and the reason for the City's spending the money on court costs was because they wanted to remain true to the original intent of the previous Council regarding the property.

Mr. Walter requested that the Council direct the City Attorney to review condition III(B) and delete it if necessary.

Councilmember Kennedy asked about the December court date, and Mr. Walter stated that it was to address the disagreement regarding the meaning of the open space easement.

On motion by Michael Menesini, Councilmember, seconded by Janet Kennedy, Councilmember, to approve Resolution 100-10 granting an appeal of the Planning Commission's denial of a proposed lot line adjustment affecting an approximate 160 acre site located at 370 Lindsey Drive; and approving said lot-line adjustment; (A) mark "for identification only" the document (approximately 240 pages) that was sent by the applicant's counsel and received by the City during the of November 3, 2010, and which the City Council, City Attorney, and City staff did not have an opportunity to review or examine prior to the Council hearing. Consequently, the applicant's request that said document be made part of the record is denied; and (B) direct the City Attorney to review the conditions of approval attached to and made a part of the resolution to determine whether condition III(B) should be deleted, as requested by the applicant, and should the City Attorney determine that said condition should be deleted, then, said condition shall be deleted from the final set of conditions imposed as part of this resolution; otherwise, the condition shall remain part of the conditions imposed as part of the approval granted hereby. Motion passed 4 - 0. Recuse: Lara DeLaney, Vice Mayor; Rest: Ayes.

CITY MANAGER

4. Recap of Gas Line Incident which took place at the intersection of Ferry/Marina Vista on Wednesday, October 28th.

City Manager Philip Vince provided a recap of a recent incident involving the rupture of a two-inch gas line. He discussed the cause, the emergency response, the City's process, the claims requests by merchants, and the subsequent review of the incident and the City's response for future reference. He also discussed the concern regarding pipelines near schools and the safety precautions being taken, and PG&E's process for shutting off valves in the event of an emergency.

Chief Simonetti noted that there had been only one complaint during the incident, over a remark made by an officer.

Public Works Director Dave Scola explained the actual cause was not a ruptured gas line, but a busted nipple off the gas line. The contractors knew that the line was there, but did not know that the nipple extended into the concrete they were removing.

Councilmember Kennedy noted that at a recent East Bay League meeting, PG&E had been considering alternatives like automatic shut-offs in emergencies, but there would be possible problems like unnecessary shutoffs. She stated that though there was room for improvement, she appreciated the handling of the incident.

Councilmember Ross stated that he had received several complaints from business owners. He also noted that Martinez was the first city in the County to require automatic shutoffs in residences. He added that accidents like these are the reason that the City requires permits for gas-line installations.

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

No other comments made.

CHIEF OF POLICE

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

Chief Simonetti reported that with the help of the Lafayette Police Department, the Martinez Police Department solved a bank robbery at West America Bank that occurred back in September, and the suspect has been arrested and charged. He also reported that over the past weekend, a laptop computer was stolen in Walnut Creek, and the GPS device in it enabled the owner to trace it to Banner Court, Martinez. A search warrant was obtained and the officers found the house filled with stolen property. Today (11/4/10) a date rape case was also solved.

APPOINTMENTS TO COMMISSIONS AND/OR AGENCIES

CITY COUNCIL

7. City Council Comments.

Councilmember Janet Kennedy expressed her congratulations to Mayor Schroder, Councilmember Menesini, and Councilmember DeLaney on their reelections. She hoped that everyone will listen and work together to make decisions so that the City can move forward. Based on conversations she had with young people during the campaign, she was optimistic about the future of the City. She also congratulated newly-appointed Chief of Police Gary Peterson and expressed confidence in his abilities.

Councilmember Mark Ross expressed his congratulations to his colleagues, and he thanked the candidates in the audience for their participation. He acknowledged that running for office can be challenging, noting that some of what happens is not fair but getting involved is a public service. He also noted that he had an opportunity today to touch the World Series trophy on behalf of the City of Martinez.

Councilmember Michael Menesini congratulated his colleagues on their reelection and commended the other candidates that ran. He stated that one of the nice things about an election is it takes you out of your home and into the community, which provides an opportunity to meet new people and speak to the citizens.

Mayor Rob Schroder also congratulated his colleagues on their reelection and commended the other candidates for their involvement. He stated it was invigorating getting out into the neighborhoods because the reaction was positive. He noted that the main theme he heard again and again was "give me a reason to come downtown," and that is what he hopes the Council is going to work on.

ADJOURNMENT

Adjourned at 8:35 p.m. to a Regular Meeting on November 17, 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 - 12/1/10