

CALL TO ORDER

Mayor Schroder called the meeting at 5:30 p.m. with Councilmembers Lara DeLaney, Michael Menesini, Mark Ross, and Vice Mayor Janet Kennedy.

I. CLOSED SESSION

- A. CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION pursuant to California Government Code Subdivision (a) of Section 54956.9 Name of Case: Carter v. City of Martinez; Case No. 06-CV-07534 PJH
- B. PUBLIC EMPLOYMENT APPOINTMENT pursuant to Section 54957 of the California Government Code. Title: Chief of Police.

CONFERENCE WITH LABOR NEGOTIATOR pursuant to Section 54957.6 of the California Government Code.

Agency Designated Representative: Donald Blubaugh
Unrepresented Employee: Chief of Police

II. RECONVENE - PLEDGE OF ALLEGIANCE - ROLL CALL

Mayor Schroder called the meeting to order at 7:00 p.m. with all members present. He reported that the Council met in closed session with direction given to legal counsel. He also announced that the Council voted unanimously to appoint Tom Simonetti as the new Chief of Police effective January 1, 2008. He introduced Mr. Simonetti and congratulated him.

Councilmember Menesini added his congratulations as well.

Mayor Schroder explained the request by staff to add an urgency item to the agenda.

On motion by Mark Ross, Councilmember, seconded by Lara DeLaney, Councilmember, add an urgency item to the agenda authorizing the City Manager to execute contracts with MCK Services and International Surfacing Systems and transfer \$137,000 from the Fiscal Year 2007-08 Paving budget for the Fiscal Year 2006-07 Annual Paving Project (C1032). Motion unanimously passed 5 - 0.

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.

Noralee Gipner asked what the process would be to have the City place a sidewalk on Muir Station Road between Nob Hill and Alhambra Way or some blacktop on one side to make it safer for pedestrians. Mayor Schroder indicated that he will submit the request to the Paving Subcommittee. Ms. Gipner also announced the first annual Martinez Home Tour, sponsored by the Martinez Historical Society, on Saturday October 8th from 10:00 a.m. to 4:00 p.m.

Emily Riggs, 2006-07 Chairperson for the "Relay for Life," reported on the benefit for the American Cancer Society. She thanked the Council and the Martinez Community. Ms. Riggs stated that this year's goal was \$40,000, and the community raised \$107,651.46. She introduced the new Chair for 2008-09 Joanie D'Antonio and she noted that October was Breast Cancer Awareness Month. The Council thanked Ms. Riggs for her hard work, and the school district for its support.

Maryetta Faulk thanked the Council for the recent neighborhood meeting. She indicated that she was very impressed and believed that positive ideas came out of the meeting and she was encouraged to participate more.

Mike Alford indicated that someone has been taking down his signs and asked to know why and whether he was doing anything wrong in his postings. Chief Cutaia explained municipal code related to the indiscriminate posting of handbills on public and private property.

Mr. Alford asked why he was being singled out for enforcement of the law, and Mayor Schroder indicated this was not the proper forum to debate the issue.

Denise Elsen thanked the Council for their assistance and cooperation with Shell's "Run for Education." She reported on the number of runners and the amount of money raised. Mayor Schroder congratulated Councilmember Ross on his first place finish, and Councilmember Ross expressed appreciation for being allowed to participate in such an important fundraiser.

Marta Van Loan congratulated City staff for the money they were able to procure for the removal of the old ferry pier. Mayor Schroder explained the BCDC grant that was applied for and allocated.

Vice Mayor Kennedy noted that the RFP had already been issued for the project.

CONSENT CALENDAR

MOTION WAIVING READING OF TEXT OF ALL RESOLUTIONS AND ORDINANCES.

1. Motion approving City Council Minutes of September 5, 2007 and September 19, 2007.
[M.Cabral]
2. Motion approving Check Reconciliation Registers dated 09/11/07, 09/13/07, 09/20/07, and

09/24/07. [C.Heater/02.01.01]

3. Resolution No. 087-07 authorizing the City Manager to execute a professional services contract with Wilbur Smith Associates in an amount not to exceed \$60,000 to prepare a community-based Transportation Plan for Downtown Martinez.
[A.Mepani&R.Pearson/09.12.08]

Mayor Schroder opened and closed public comment on Consent Calendar Items 1-3 with no speakers coming forward.

On motion by Lara DeLaney, Councilmember, seconded by Janet Kennedy, Vice Mayor, to approve Items 1-3 of the Consent Calendar Motion unanimously passed 5 - 0.

3. A. Resolution authorizing the City Manager to execute contracts with MCK Services and International Surfacing Systems and transfer \$137,000 from the Fiscal Year 2007-08 Paving budget for the Fiscal Year 2006-07 Annual Paving Project (C1032). [T.Tucker]

City Engineer TimTucker gave a brief staff report, explaining the background and increased cost necessary to accomplish the annual paving project.

There was no public comment on the item.

On motion by Lara DeLaney, Councilmember, seconded by Mark Ross, Councilmember, to approve Resolution No. 088-07 authorizing the City Manager to execute contracts with MCK Services and International Surfacing Systems and transfer \$137,000 from the Fiscal Year 2007-08 Paving budget for the Fiscal Year 2006-07 Annual Paving Project. Motion unanimously passed 5 - 0.

PUBLIC HEARING(S)

4. Public hearing to consider: a) General Plan Amendment to re-designate approximately 3 acres from "Open Space" to "Residential," to allow the possibility of creating 4 additional single family home lots, in addition to the one existing single-family home on the 5.57 acre site, at 635 Vine Hill Way, Freitas Project; AND adoption of a mitigated negative declaration. [C.Simon&A.Lopez/09.02.01]

Mark Ross recused himself from the discussion due to conflict of interest, and he left the dais.

Senior Planner Corey Simon gave the staff report, including a PowerPoint presentation reviewing the history of the site and details of the proposed GPA. He also discussed options before the Council and potential next steps in the process.

Councilmember DeLaney asked about the mitigated negative declaration reference to five homes. Mr. Simon confirmed that it was prepared for a larger development proposal; the current proposal is for 4 new homes.

Councilmember DeLaney questioned how the determination was made that there are no habitat areas on the site, which Mr. Simon explained. Councilmember DeLaney also asked whether custom home developments were "considered an optional means of preserving the rural aesthetic," as implied in the staff report. Mr. Simon explained how that could be.

Councilmember DeLaney asked an additional question about the history of the site, specifically why the scenic easements were not recorded after the fact when the oversight was discovered. Mr. Simon explained that the City Attorney had determined that the length of time that had passed meant the City was not able to record the easements later.

Stephen Gizzi, Attorney, representing Gary Freitas, applicant, discussed his experience as a councilmember and the difficult decisions that sometimes have to be made. He particularly focused on "private open space" and the impacts on the property owner, as well as the benefits to the City and the neighbors from the preservation of the Coward Knoll in perpetuity.

Mayor Schroder asked Mr. Gizzi what he thought of staff's recommendation that the City not take ownership of the Coward Knoll, but that it be the responsibility of the homeowners of the four new homesites to maintain it. Mr. Gizzi said he thought that would be an unrealistic and unfair demand on the homeowners and could even be called "taking" of the property.

Mayor Schroder expressed concern about liability to the City and/or the property owners also. City Attorney Jeff Walters disagreed with Mr. Gizzi, noting that private open space easements were common practice among cities, and that dedicating the property back to the City was not the best way to handle them. He commented that neither he nor City Manager Don Blubaugh would recommend the City accept the open space, but that it should continue as private open space area.

Mayor Schroder asked about public access to private open space, and Mr. Walters acknowledged that public access is usually denied when private ownership is maintained. Councilmember Menesini noted that there have been instances when public access has been a condition of approval, even while private maintenance is required.

Councilmember DeLaney asked for clarification on statements made by Mr. Gizzi as to how many units could potentially be built on the property if zoning changes were allowed. Mr. Gizzi explained his calculations, noting that his point was that this development proposal was a modest one, with minimal impacts to the neighborhood and the environment. He also commented on insurance liability issues with private open space.

Councilmember Menesini asked how much of the 5-acre lot was considered the Coward Knoll. Mr. Gizzi said about 1.75 acres.

Mayor Schroder opened the public hearing by reading comments from Jeff Lipary in support of the proposal.

Maryetta Faulk was also supportive.

Joann Clements, also representing husband Ernie Clements, expressed confidence that custom homes on the property would improve property values in the area.

Susan Higgins read statements in favor of the project by neighbors Ted Smith, Deborah Stewart, and Eugene McGlothlin.

Michael Hanley was opposed to the general plan amendment, saying that the original designation of open space should be retained.

Eleanor Souza was also opposed, because of view impacts on her property and the loss of open space.

John Miffleton said the Council should uphold the decisions of previous Councils and deny Mr. Freitas' repeated attempts to develop the lot further.

Andrew Beaman read a letter from Bill Feil, Chair of Friends of Pleasant Hill Creek and a member of Land for Urban Wildlife, in opposition to the general plan amendment.

Lindsey Higgins expressed concern about mis-truths being repeated about the project. She was supportive of the proposal as beneficial for the City.

Steve Gallo said the property should remain open space, and Mr. Freitas should have been aware of the designation when he bought the property.

Gary Hernandez commented on the many changes in Martinez over the last 30 years, especially in terms of dedicated open space. He also commented on the need for progress so that Martinez can prosper. He was supportive of the proposal.

James Dean, son-in-law of the original owner Mr. Coward, discussed the reasons why the property was not considered for development 30 years ago, noting that now it is an eyesore and inaccessible to all but Mr. Freitas. He briefly reviewed the history of the property. He was appreciative of the plan to preserve the knoll, and he encouraged the Council to approve the project.

Jan Switalski indicated he was strongly opposed to the proposed general plan amendment, noting that deer and other wildlife do come to the property. He urged the Council to preserve the original designation of permanent open space.

Shirley Switalski noted that they and other residents were told that the Freitas property would be permanent open space, and they based property purchases on that information. She was concerned about the impacts on wildlife as well.

M.C. O'Bryant was also opposed to the project, questioning how much the City would really benefit when compared to how much Mr. Freitas will benefit financially. He questioned why Mr. Freitas has not done a better job of maintaining the site and the sidewalk.

Jim Hein was supportive of the project, as beneficial to the City because of the park and the quality homes that will result.

Mayor Schroder read comments from Bob Hazor in support of the project.

Rich Robinson commented on needed improvements in the area, including better maintenance or development of the site in questions.

Barry Thompson said he thought this would be a great infill project for the City, low density and including a park.

Carol Baier expressed concern about impacts on existing trees. She urged the Council to support the current General Plan and keep the site open space.

Robert Hayworth expressed his support for the proposal.

Mark Shoemaker agreed the Freitas project will be good for the City, bringing new families to the downtown. He urged the Council to approve the project.

Russell Roofener was also supportive of the proposal.

Leslie Chernak was opposed to the project. She questioned how the open space designation was omitted from the subdivision map, and she noted that if the previous designation of "permanent" open space has no legal standing, then how can the City trust the promise now that Coward Knoll will be open space "in perpetuity?"

Mayor Schroder read comments from Conner McCormack opposed to the general plan amendment.

Lorna Thomson expressed opposition to the project, and she questioned whether the negative declaration was adequate. She suggested Mr. Freitas look elsewhere if he wants property for development.

Hal Olson, President of the Alhambra Valley Improvement Association, discussed the purpose of the open space designation and the dwindling supply of open space property. He expressed concern about the precedent that might be set from approval of this project.

Mayor Schroder read comments in support of the proposal from Gracie Johnston.

Bill Johnston urged the Council to disregard the comments from people who do not live in the City. He was supportive of the project and said he thought the pros outweighed the cons.

Mayor Schroder read comments from Noreen Stanton, urging the Council to keep the area as open space.

Steve Schmidt, owner of a similar parcel of private open space, cautioned the Council about the precedent that may be set if the open space is given up. He commented on his efforts to maintain his property, as a guardian of the land.

Albert Turnbaugh commented on his experience on the Council, and the unusual support shown tonight for the general plan amendment. He also discussed the importance of private property rights.

Mayor Schroder read comments from Albert Beaman opposed to the project.

Mayor Schroder also read a letter from former Mayor John Sparacino (who was on the Council when the subdivision was approved), indicating he supported the general plan amendment.

Mike Alford expressed support for the project as an improvement for the City. He urged the Council to approve the general plan amendment.

Mike George commented on the representation made to him when he purchased his property that the Freitas land would be permanent open space. He also shared a flyer distributed by another neighbor about the impacts of removing the open space designation. He disputed statements made by others as to the number of units that could physically be built on the lot, as well as whether the City would benefit financially from the development.

Louis Thompson expressed concern about the impacts of the proposed development on the surrounding neighborhood.

Roger Goodwin said he thought the project was a great one, but unfortunately not allowed at the proposed location. He asked that the Council support the efforts of the Planning Commission and staff and follow their recommendations.

David Piersall was supportive of the proposed development, noting that the impacts would be few and the benefits to the City many. He expressed confidence that there would still be plenty of open space in the area.

Mr. Gizzi thanked all those who came to speak for their interest in the community. He discussed the long history of the property, including improvements to the visual impacts of the current project. He asked for favorable consideration from the Council.

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

Vice Mayor Kennedy asked Mr. Simon about the scenic easement designation to be included on this new subdivision's map, and Mr. Simon confirmed the location.

Mayor Schroder commented on statements made that "zoning doesn't last forever," and the need for regular general plan updates (which Martinez hasn't done for some time). He also discussed the Downtown Specific Plan process, looking at under-utilized properties and setting a blueprint for future development there. He commented on ABAG housing requirements for the City and the need for the City to meet those goals, and other necessary changes over time.

Mayor Schroder discussed the Planning Commission vote, as well as improvements to the development proposal made over time. He was generally supportive of the proposal, but he expressed concern over how the open space at the knoll would be handled.

Councilmember Menesini acknowledged the complexities of the issues, as well as acknowledging the importance of open space. He expressed concern about the oversight in designating the original scenic easement area, noting that would have provided the necessary protection that the residents want. He was not concerned about precedent since similar properties would be considered uniquely and separately. He also commented on the divided sentiment among the neighbors, with some in support and others not. He agreed there were issues still to be settled in the conditions of approval and mitigation measures. He discussed benefits to the neighborhood and the community at large from the proposed development. He expressed support for the general plan amendment, with specific conditions and mitigations.

Councilmember DeLaney expressed agreement with the comments made by Councilmember Menesini and Mayor Schroder. She was appreciative of those who came to speak, noting that she had listened to each, as well as reading the staff report and all the emails related to the proposal. She was supportive of the general plan amendment, and she reviewed the reasons why.

Vice Mayor Kennedy said she supported the general plan amendment as well. She acknowledged that the concept of "private" open space was new to her, and she was appreciative of the proposed project's preservation of the knoll as public open space. She agreed that the maintenance of the knoll was an issue still to be resolved.

Mr. Walters clarified that the Council could not take action tonight to approve the project, but only to direct staff to develop a mitigation, monitoring and reporting plan and a resolution with findings for approval.

On motion by Michael Menesini, Councilmember, seconded by Lara DeLaney, Councilmember, direct staff to prepare a resolution, mitigation and monitoring plan, mitigation negative declaration and written findings that will allow the amendment to go forward to the next regular meeting. Motion unanimously passed 4 - 0.

There was no action taken on Item 4(b).

The Council recessed from 10:05 - 10:10 p.m.

Councilmember Ross returned to the meeting.

5. Public hearing to introduce an Ordinance amending Sections 8.38.020, 8.38.030, 8.38.070, and 8.38.090 of Chapter 8.38, Regulation of Vacant Structures, of Title 8, Health and Safety of the Martinez Municipal Code. These amendments will apply boarding permits to more categories of structures that are left vacant and will increase the City's ability to control vacant structures within the City. [D.Scola/9.10.09]

Public Works Director Dave Scola gave the staff report, discussing concerns of citizens expressed at neighborhood meetings. He also reviewed the current regulations and proposed amendments.

Councilmember Ross asked what the process would be if a building is vacant for more than six months, and Mr. Scola explained the abatement procedure. Councilmember Ross was concerned about the slow real estate market, and Mr. Scola reviewed exceptions to the ordinance.

There was discussion among the Council and Mr. Scola as to the definition of vacant structures and the abatement process.

Mayor Schroder opened the public hearing.

David Piersall said he thought the ordinance should specifically exempt properties acquired in foreclosure, as long as they are being actively managed. He also recommended that bolt-boarding should not be used in securing the vacant buildings, and he made specific recommendations for other types of security and for the permitting process.

Mike Alford said the ordinance was common-sense, to ensure that empty buildings without utilities do not become derelict.

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

Councilmember DeLaney said she thought Mr. Piersall's recommendations should be considered before taking action.

Councilmember Ross agreed there should be some latitude in enforcement and the boarding requirements.

Councilmember Menesini asked Mr. Scola's opinion of the recommendations. Mr. Scola referred to one section of the code that allows the building official to have some flexibility. He indicated he would be willing to evaluate Mr. Piersall's comments and review them with the City Attorney's office to see whether they could be fairly included.

After further discussion and review of the ordinance, it was determined that Mr. Piersall's recommendations were already covered in the ordinance.

On motion by Mark Ross, Councilmember, seconded by Michael Menesini, Councilmember, introduce an ordinance amending Chapter 8.38, Regulation of Vacant Structures, of Title 8, Health and Safety of the Martinez Municipal Code. Motion unanimously passed 5 - 0.

ORDINANCE(S)

CITY MANAGER

6. Provide direction to staff as to whether steps should be initiated to place bond issue on ballot for community improvements. [J.Tool/40.20.00]

Deputy Director of Parks and Recreation Joann Tool gave the staff report, discussing the need for a bond measure for November 2008, for renovation, repairs and upgrades to the park and recreation facility, including the pool and ballfields. She also discussed the previous bond measure and its failure, as well as recommended strategies for voter education and campaigning.

Mayor Schroder opened the public hearing.

Gay Gerlack, Park and Recreation Commissioner, read a statement from Commissioner John Fuller (part of the Youth Subcommittee) encouraging the Council to begin the bond measure process. She also commented on the poor conditions of the City recreational facilities, and she asked for the Council's support.

Sarah Shelton, Martinez Community Swim Team president, said she thought a bond measure would help enhance the City facilities and programs. She urged the Council to support the measure.

Eric Brown, swim team parent, commented on the importance of good facilities for the children.

Katherine Hern, Park & Recreation Commissioner, expressed appreciation for the staff presentation of the goals and needs. She commented on the level of community support for the last measure, and she expressed confidence that this measure had a greater chance for success.

Roger Goodwin asked the projected amount of the bond measure, and Mayor Schroder indicated the full amount was unknown at this point. Mr. Goodwin expressed support for the measure.

Marta Van Loan indicated she was also supportive of the concept. She suggested that renovations to the downtown library also be included.

David Piersall agreed the library is equally important as sports facilities in providing resources for children.

Al Boise spoke on behalf of the children, who need good safe facilities for recreation, safety and health. He agreed the focus should be narrower than the previous measure.

An unidentified speaker distributed a handout to the Council, including a potential scope of work and cost projection for the pool upgrades, and he questioned the \$7 million estimate mentioned at an earlier meeting.

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

Mayor Schroder expressed support for the measure, and was appreciative of the broad level of participation. He indicated he would like to staff to explore the possibilities.

Councilmember Ross agreed with Mayor Schroder's comments, and he agreed it wouldn't necessarily exclude the possibility of redevelopment at the same time. He asked the consultant, Dustin DeRollo of Saggau and DeRollo, how bond measures like this are faring in the Bay Area.

Mr. DeRollo said it varies among communities, and he noted that doing research beforehand among the citizens was important in knowing their priorities and level of support.

Vice Mayor Kennedy acknowledged the importance of good safe recreational facilities, including the library, for the children and families of the community. She also commented on the need to ensure accessibility for everyone.

Councilmember DeLaney concurred with the other members of the Council. She agreed that redevelopment and the potential bond measure were not mutually exclusive. She also agreed that a more focused approach would be good.

Councilmember Menesini expressed support as well, especially for a measure to be on the ballot in November 2008. He agreed the measure should be specific and include the pool, park restrooms and fields, and the library.

On motion by Mark Ross, Councilmember, seconded by Lara DeLaney, Councilmember, direct staff to move forward with steps leading to a November 2008 bond issue for Community improvements; retain professionals to help scope projects and provide cost estimates, and report back to Council on specific recommendations on who should be retained to accomplish tasks. Motion unanimously passed 5 - 0.

7. Motion approving the Civil Service Commission's recommendation to eliminate the Police Evidence Technician classification and reallocate the funding for an additional Police Dispatcher position. [D.Cutaia/04.05.02]

Chief of Police David Cutaia gave the staff report.

Mayor Schroder opened public comment on the item.

David Sidran spoke on behalf of Robin Gonzales, the current Police Evidence Technician, requesting that the item be postponed until the next meeting so Ms. Gonzales could be present to express her opposition to the change.

Seeing no further speakers, Mayor Schroder closed public comment.

On motion by Michael Menesini, Councilmember, seconded by Lara DeLaney, Councilmember, approve the Civil Service Commission's recommendation to eliminate the Police Evidence Technician classification and reallocate the funding for an additional Police Dispatcher position. Motion unanimously passed 5 - 0.

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

No comments made.

APPOINTMENTS TO COMMISSIONS AND/OR AGENCIES

CITY COUNCIL

9. City Council Comments.

Councilmember Menesini clarified information from the County Health Department ensuring that in fact the City will not have to close the swimming pool until the necessary repairs can be made. City Manager Blubaugh confirmed Councilmember Menesini's information.

Councilmember Ross stated that he will not be able to attend the next Council meeting since he will be out of the Country.

Mayor Schroder stated that he will also be out of town and will not be able to attend the next Council meeting.

Vice Mayor Kennedy thanked everyone who participated in the Shell Fun Run and announced the Bocce Tournament on Saturday, October 7th at 4:00 p.m. and the Restaurant Tour at 1:00 p.m.

ADJOURNMENT

Adjourned at 11:22 p.m. to an Adjourned Regular Council meeting and Hidden Valley Neighborhood meeting on October 17, 2007, at 7:00 p.m. at Hidden Valley School, Multi-Use Room, 500 Glacier Drive, Martinez, California.

Approved by the City Council,

Rob Schroder, Mayor

Mercy G. Cabral, Deputy City Clerk – 10/17/07