

CALL TO ORDER

Mayor Schroder called the meeting to order at 6:00 p.m. with all members present except Councilmember Menesini and Vice Mayor Ross who arrived shortly after roll call.

The Council adjourned to the City Manager's Office.

CLOSED SESSION

- A. CONFERENCE WITH LEGAL COUNSEL--Existing Litigation section 54956.9(a) of the California Government Code.

Name of Case: Ostrosky v. City of Martinez

PUBLIC COMMENT (Closed Session Only)

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

No Comments made.

RECONVENE - PLEDGE OF ALLEGIANCE - ROLL CALL

The meeting reconvened in the Council Chambers at 7:09 p.m. with all members present. Mayor Schroder reported that a closed session was held and direction was given to legal counsel.

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

EXCUSED: None.

ABSENT: None.

PRESENTATION(S)/PROCLAMATION(S)

- A. Certificate of Appreciation to Veterans Commissioner Lillian Golino and Jean V. May.

Mayor Schroder stated that the presentation would be continued to a future meeting due to the fact that Jean May is in the hospital and Commissioner Golino wishes to be recognized together.

PUBLIC COMMENT

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

Paul Craig stated that the environment on Ferry Street is getting pretty bad, noting he does not feel threatened, but he does feel uneasy. He requested that police officers be stationed there on

a regular basis. Chief Simonetti stated that since August, the Department has started foot patrols on weekends and discussed ongoing efforts to alleviate some of the problems.

George Bell gave a quick update on Main Street Martinez regarding the downtown directory kiosks which are now in place; he thanked Karen Majors and Dave Scola and the Public Works crew for their assistance. Councilmember DeLaney suggested that they include information on the beavers.

Karma David addressed the article in the weekend Gazette about Ferry Street, which gives a negative view of the City. She indicated that she has noticed a change in the downtown and finds it intimidating. Ms. David questioned what the City was doing for the downtown and read a wish list for Downtown Martinez. Mayor Schroder discussed efforts that the City is making to resolve the problems. Councilmember Menesini acknowledged some of the problems. He asked Chief Simonetti to discuss efforts to install cameras in the area to deter crime.

Tim Platt spoke about Measure H stating that it was an achievement made by the community. He urged the citizens to come together and set aside their differences for the common good, especially for improvements for the downtown and marina. He made some suggestions.

Mike Alford stated that the bad language and violence on Ferry Street is increasing. He questioned whether the Police Department's statistics for Ferry Street were accurate.

Paul Wilson urged the Council to hire more police officers and place them on the streets to address the problems immediately. Mr. Wilson commented on an article in the Gazette regarding a future hotel across the tracks which did not make sense to him, knowing that the trains would be passing and blowing their horns. He questioned whether there would be enough demand for a hotel in the downtown anyway.

CONSENT CALENDAR

MOTION WAIVING READING OF TEXT OF ALL RESOLUTIONS AND ORDINANCES.

1. Motion approving City Council Minutes of October 15, 2008. [M.Cabral]
2. Motion approving Check Reconciliation Registers dated 10/30/08 and 11/06/08. [C.Heater/02.01.01]
3. Resolution No. 094-08 authorizing the application to the Metropolitan Transportation Commission (MTC) for the Transportation Development Act (TDA) grant funding for the Uniform Bike Lane Signage Enhancement Project (FY 2009-2010). [T.Tucker/12.13.00]
5. Resolution 096-08 accepting Subdivision 8917, "Muir Landing" public dedications and improvements and authorize the release of Performance and Labor and Materials Bonds and Security Deposits. [T.Tucker/13.8917]

Councilmember DeLaney asked that Item 4 be pulled for discussion.

Mayor Schroder opened and closed public comment on Items 1-3 and 5, with no speakers coming forward.

Motion to approve Consent Calendar Items #1, #2, #3, and #5.

Moved by Janet Kennedy, Councilmember, seconded by Lara DeLaney, Councilmember. The Council voted to approve unanimously.

Mayor Schroder recused himself from Item 4, turned the meeting over to Vice Mayor Ross and left the dais.

Vice Mayor Ross expressed his support for the bike lane signage program. He also took issue with Chief Simonetti being called a liar.

4. Resolution No. 095-08 accepting the Emergency Creek Bank Stabilization; Alhambra Creek - Escobar Street to Marina Vista, Project Number C3007, per contract documents and instruct the City Clerk to File a Notice of Completion. [T.Tucker&D.Salts/10.07.00]

Councilmember DeLaney discussed references in the staff report regarding the necessity of the repairs, as well as impacts to the beavers before and after the project. City Engineer Tim Tucker presented the staff report.

Heidi Perryman expressed full support for the resolution and confidence that the project was completed. She showed photographs that disputed information from Cal Engineering and provided clear evidence that the damage was not due to the beavers.

Mike Alford asked why Councilmember DeLaney and Vice Mayor Ross did not make the public aware of the double sheet metal wall shown in the pictures by Ms. Perryman. He questioned whether the money spent was really necessary, especially given the condition of other areas in the City.

Paul Wilson noted that the repairs made should enable future owners of the property to build a four or five story building. He expressed concern about the City's liability.

An unidentified speaker agreed with Mr. Alford that the cracks in the wall shown in the photographs should have been apparent to anyone, noting they had been there for at least ten years.

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

Councilmember Menesini acknowledged there were obviously strong feelings about the project. He expressed appreciation for the work done by staff and Skip Lisle to protect the wildlife. He noted there was significant erosion with deteriorating retaining walls, prior to the repairs being made, as established by independent evaluation by qualified engineers. He commented on the risks that the City would have faced if the work had not been done.

Councilmember DeLaney agreed with Councilmember Menesini, adding that the repairs that were done were actually part of the original creek improvements that were done ten years ago. She also noted that the City was threatened with a lawsuit if the repairs were not made. She indicated that the repairs were paid for out of the Texaco settlement money. She expressed appreciation to staff for a job well done.

Councilmember Kennedy agreed the repairs were necessary to protect the public safety of the community, including care for the beavers.

Vice Mayor Ross noted that this is the fourth vote on the matter, and although he was slow to reach the conclusion, he acknowledged it was necessary.

Motion to approve Resolution No. 095-08 accepting the Emergency Creek Bank Stabilization; Alhambra Creek - Escobar Street to Marina Vista, Project Number C3007, per contract documents and instruct the City Clerk to File a Notice of Completion.

Moved by Michael Menesini, Councilmember, seconded by Lara DeLaney, Councilmember. The Council voted to approve unanimously.

Mayor Schroder returned to the dais.

PUBLIC HEARING(S)

6. Public hearing to consider a resolution amending the Allied Waste Franchise Agreement for a 4.01 percent Rate Increase for Residential and Commercial Collection and accept the 2009 Interim Year Rate Review Report. [M.Chandler/31.02.00]

Senior Management Analyst Michael Chandler presented the staff report.

Vice Mayor Ross asked how the recently-lowered fuel prices would affect the rates. Mr. Chandler noted it was factored into the decision to not raise the rates.

Eric Nyland, NewPoint Group, commented on the criteria used to calculate projected costs.

Councilmember DeLaney asked for information on the average rate changes over the years. Mr. Nyland confirmed it was below the consumer price index for the same time period.

Mayor Schroder opened the public hearing.

Kathi McLaughlin discussed her calculations of the rate increases over the period, noting her conclusion was 4.0% per year average, a little higher than reported by Mr. Nyland. She also noted that the total increase was 32% over the last 8 years, which seemed excessive to her. She expressed concern especially that the report was completed before the latest drop in fuel prices. Councilmember DeLaney noted there were 2 years during the period when the rate was not raised at all.

Paul Wilson commented that his rate is currently \$52 for standard service. He expressed concern that if it continues at the same rate, eventually even people on fixed incomes will be paying \$100+ for garbage service.

Mr. Chandler commented that since the notice of rate increase has to be given 90 days in advance, Allied Waste had no choice but to use the August 2007 to August 2008 information, rather than November to November. He also commented on the compounding effect of rising costs in calculating the percentage increase based on the CPI. He noted as well that the City users are offered a lower rate through single stream recycling, unlike other cities.

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

Councilmember Menesini confirmed that the calculations are based on the consumer price index. He asked the source of the information, and Mr. Nyland indicated it was from the Bureau of Labor Statistics for the Bay Area region, published bi-monthly.

Councilmember Menesini asked how the rates will be affected if there is a deflationary period, as is currently predicted. Mr. Nyland noted that the City has the right to adjust rates downward if there is a negative change. He also discussed rate changes for program changes, not used in the calculation for the report. He noted that fuel costs are included in the CPI.

Councilmember DeLaney discussed the City's contractual obligations under the current franchise agreement. She commented on the excellent service that the City receives for the cost.

Mayor Schroder agreed that Allied provides good service, especially with the single stream recycling.

Councilmember Menesini expressed agreement as well.

Motion to Resolution 097-08 amending the Allied Waste Franchise Agreement for a 4.01 percent Rate Increase for Residential and Commercial Collection and accept the 2009 Interim Year Rate Review Report.

Moved by Michael Menesini, Councilmember, seconded by Janet Kennedy, Councilmember. The Council voted to approve unanimously.

CITY MANAGER

7. Joltin Joe Restoration Update.

Public Works Director Dave Scola presented the staff report. He reviewed the history of the Joltin Joe, a Chriscraft boat which was given to Martinez' Joe Dimaggio, and he reviewed options for the restoration project. Mr. Scola also stated that because of the great efforts on the part of the Sons of Italy, the project has received many donations.

Ray Raineri, Sons of Italy, stated that they have been receiving great support from staff, newspapers, and the community. He stated that \$16,000 has been received to date, including two major contributions (\$5,000 each) from Bart Bissio and Earl Dunivan Jr. Mr. Raineri also

announced fundraising events: a baseball card show on January 4th at the Senior Center; February 20, 2009 at the Colombo Club in Oakland, a bocce tournament later in the spring sponsored by the Martinez Bocce Club, as well as a potential function at the Vianni winery. He expressed optimism that the fund will continue to grow. He also noted that the project is having a unifying effect on the community.

Mayor Schroder asked about the possibility of using Sierra Boats in the process, and Mr. Scola indicated staff was still in the fact-finding process.

Mayor Schroder opened and closed public comment with no one coming forward to speak.

Councilmember Menesini thanked everyone involved so far, agreeing that it has been good for the community.

8. Willows Theater Company: [P.Vince&J.Tool/9.12.07&11.05.11]
 - A. Adopt resolution authorizing all or part of the \$100,000 one time funding request to assist Willows Theater Company in paying off over \$167,000 in debt payments; and
 - B. have Council consider budgeting an ongoing amount of \$65,000 per year in the next two year operating budget beginning on July 1, 2009.

Joann Tool, Deputy Community & Economic Director, Recreation Services and Marina, presented the staff report.

Rich Elliott, Willows Theatre, discussed economic benefits to the City from the presence of the Willows Theatre in the City. Mayor Schroder acknowledged the positive results from the partnership, but he questioned what assurances could be given that the City's money wouldn't only postpone the inevitable demise of the theatre. Mr. Elliott agreed he could give no guarantees, and he indicated that without the additional funding from the City, the theatre would likely continue at least in some form. However, he noted it would not be the same organization and the accomplishments of recent years would go away.

Chuck Lewis, Willows Board President, noted that the theatre has made a firm commitment to Martinez in terms of the activities and properties it owns in the City. He also noted that the boardmembers of the theatre have made personal financial contributions as well.

Mayor Schroder asked about future plans for the theatre in Concord, given the lease the organization has for the space there. Mr. Elliott discussed terms of the agreement with the City and the shopping center.

Councilmember DeLaney asked what "APAC" referred to in the lease. Mr. Elliott said it was the Alhambra Performing Arts Center at the high school. He indicated that it was likely there would be more productions there in the future. Councilmember DeLaney asked how the statistics were generated for the report, and Mr. Elliott said it was done through the ticket-tracking program.

Councilmember DeLaney expressed concern about the statement in the report that the projected ticket sales will not meet the company's revenue projections for sales; she asked how the company could keep going if that happens. She also questioned the cost benefit to the majority of Martinez residents from the theatre. Mr. Elliott clarified that the \$75,000 loan will partially be paid back through loaning of the lighting and sound equipment. He also discussed other efforts that the organization is taking to reduce their overall budget.

Vice Mayor Ross confirmed that the money loaned from the City will be used exclusively for the Martinez segment of programming. He asked, and Mr. Elliott gave a breakdown on how the money would be used.

Vice Mayor Ross asked if there were any other regional or subregional theatre groups similar to the Willows, either in the Bay area or the west coast, that have seen success following the same model. Mr. Elliott said there are many nonprofit theatre companies but they eventually either go to the next level or they close up. He commented, however, that the Willows Theatre Company is unique in terms of its programming and production.

Vice Mayor Ross expressed optimism that the Willows could be part of the regional draw to Martinez. He also noted that Main Street Martinez and the Chamber of Commerce have received funding from the City as well, and not in the form of a loan either. He commented on the cultural benefit that the arts can bring to the City, and the need to invest in the future of Martinez.

Mayor Schroder opened public comment on the item.

Marta Van Loan questioned whether assisting the Willows was an appropriate use of the City funds in view of the current economy. She commented on the Council's responsibilities to ensure public safety and fiduciary soundness.

Barbara Hannifin commented on the amount per resident that this allocation will cost the City. She thought this was not an appropriate use of the City's money, and there are other more important needs such as renovation of the train station and/or more police officers.

Mike Alford expressed agreement with Vice Mayor Ross on the importance of the arts to the City. He urged the Council to follow through on their commitment to the theatre, rather than bailing out halfway through the process. He also suggested using drama classes as a way to partner with the School District.

Kathi McLaughlin noted that the School District offers drama classes from certificated teachers. She commented on the costs of renting out the facility, as well as the impacts of recent budget cuts on the district's programs. She was fully supportive of arts programs, but she questioned the fairness of giving financial assistance to one organization over another especially without some grant application process in place. She also reviewed recent cuts the City made for other organizations. She asked Mr. Elliott whether all of the 75 employees work in Martinez or if some work in Concord, and she asked for clarification on an earlier loan that the Willows took out.

At the request of Mayor Schroder, Mr. Elliott noted he was not sure where the newspaper got some of their information. He confirmed that \$75,000 was all that the Willows has borrowed from the City. He confirmed that 42% of the employees are Martinez residents and they all work in Martinez.

Paul Wilson noted that the City already maintains some of the facilities used by the Willows. He also discussed the per-resident cost of the subsidy being requested. Mayor Schroder clarified that Item 9B, the allocation of \$65,000 per year, was not going to be discussed tonight. He indicated that all that was being considered was the \$100,000 one-time funding request.

Kristin Henderson was concerned that the economy might actually go into a depression; she noted that the financial benefits the City could gain from the theatre could make a difference in helping the economy recover. She also stated that it is impossible to put a price tag on the financial benefits the City could enjoy as a result of supporting the arts. She asked whether there is any additional money left in the Texaco settlement fund that could perhaps be used to help the Willows.

Carol Hatch thanked the City for its past support for the Willows. She also commented on the benefit that the arts bring to the children of the community.

Kathy Parker reiterated earlier comments that the support of the arts in Martinez is essential in helping the City become a destination once again. She also noted that the Willows management, Board and staff are making contributions to the organization as well, not asking for money without a willingness to sacrifice.

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

Mayor Schroder acknowledged his concerns when he first saw the request from the Willows, and he also acknowledged that the Willows has brought many people to the downtown that would not have come otherwise. He was appreciative of the personal investment made by the Willows financial supporters. He indicated he would prefer to see at least some of the funding being done in the form of a loan.

Vice Mayor Ross suggested \$70,000 come from the Texaco fund and \$30,000 from the General Fund, with half being considered as a loan (although he acknowledged the repayment might have to be in-kind rather than cash). He also thought the City could continue with \$40,000 each year over the next three years, to roughly match what is budgeted for Main Street and the Chamber.

Councilmember DeLaney asked the Finance Manager, Cathy Heater, regarding the projected operating deficit for the 2009-10. Ms. Heater acknowledged the City may already have to make some cuts in order to balance its budget. She noted the City has been paying the rent on the Cabaret facility for the last four years with one more year agreed upon. Councilmember DeLaney asked about the projected growth in property tax, and Ms. Heater indicated it was only about 2%, unlike previous years when that amount was increasing beyond prediction.

Councilmember DeLaney stated she was concerned about the pending deficit as well as State budget impacts, CalPers adjustments, and the decreasing economy overall. She was concerned about potential cuts to the services the City provides to the citizens. She was unsure that the City can afford to approve this request at this time.

Mayor Schroder asked about the number of vacancies in the Police Department, and the Chief confirmed there were three openings at this time; which would increase the police presence in the City.

Vice Mayor Ross noted this is the type of item that the reserves should be used for, and it can provide economic stimulus for the City. He urged the rest of the Council not to give up on the vision that includes the arts.

Councilmember Kennedy agreed this could be an economic tool. She commented on a visit to Ashland, Oregon with a similar arts focus. She acknowledged it could take time, but she thought it important to follow through on the earlier commitment to the arts. She discussed her own impressions on the renewed interest in the City through the programs offered by the Willows Theatre. She offered possible ways that the allocation could be structured, including use of the Texaco fund if possible.

Mayor Schroder asked about the balance in the Texaco fund, and Ms. Heater discussed restrictions on its use, noting that only \$500,000 was left to be used for legal fees.

Councilmember Menesini commented on the risky economic times, and he commended Councilmember DeLaney for her caution. He agreed that the Willows Theatre is an important part of the vision for the City, and he acknowledged that vision is necessary to survive. He discussed past ventures taken on by the City that ended well in spite of early uncertainties. He also acknowledged the need to find some way to revitalize the downtown to earlier stability. He indicated his support for the \$100,000 allocation, but he was not willing to consider the \$65,000 allocation at this time.

Mayor Schroder asked, and City Attorney Veronica Nebb discussed ways that it could be handled. Councilmember Menesini suggested it be sent back to the Subcommittee for further research. Councilmember DeLaney said she would like to know what type of expenses would be covered by the money.

Motion to approve the funding request to assist Willows Theater Company in concept, and return it back to staff and the Subcommittee for the purpose of 1) determining how the loan would be structured in terms of how much will be loaned and how much will be a grant; 2) line item structure to determine how the money will be expended; and 3) detail how the existing loan will be repaid; and return back to Council for final approval on the Consent Calendar.

Moved by Michael Menesini, Councilmember, seconded by Lara DeLaney, Councilmember. The Council voted to approve unanimously.

Part #B was tabled.

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

No comments made.

APPOINTMENTS TO COMMISSIONS AND/OR AGENCIES

CITY COUNCIL

10. City Council Comments.

Vice Mayor Mark Ross announced that today is the first night of "Spare the Air" and informed the public about the new ordinance that has gone into affect.

Councilmember Lara DeLaney reminded the Council that she will not be in attendance at the December 3rd meeting and requested discussion of redevelopment on a future agenda.

Councilmember Janet Kenney wished all a Happy Thanksgiving. She urged the public to donate food and gift cards to local non-profits, i.e., Shelter Inc--957-7561 and Contra Costa County Food Bank. Councilmember Kennedy announced Hospice Tree Lighting on Saturday at 5:00 p.m.

Mayor Rob Schroder encouraged the public to attend the Hospice Tree Lighting as well on Saturday, November 22 at 5:00 p.m. on Morello Ave. He commented that he had agreed to be the guest speaker, sharing his experience with Hospice.

ADJOURNMENT

Adjourned at 10:14 p.m. to a Regular City Council Meeting on December 17, 2008 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 – 12/17/08