

**CALL TO ORDER**

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

**PUBLIC COMMENT**

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

**CLOSED SESSION**

- A. *CONFERENCE WITH LEGAL COUNSEL -- ANTICIPATED LITIGATION Significant exposure to litigation pursuant to Cal. Gov't Code section 54956.9(b): One potential case.*

*ADDED FROM SUPPLEMENTAL AGENDA:*

- B. CONFERENCE WITH LEGAL COUNSEL--EXISTING LITIGATION pursuant to Cal. Government Code Section 54956.9(a).

Name of Case: Guardado vs. American Civil Contractors, Inc., et al.

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

The meeting reconvened at 7:00 p.m. with all members present as indicated. Mayor Schroder reported that a closed session was held regarding conference with legal counsel pursuant to Government Code Section 54956.9(b) one potential case; and exiting litigation pursuant to Government Code Section 54956.9(a) Guardado vs. American Civil Constructors, Inc., et al. and direction was given to legal counsel.

Assistant City Attorney Veronica Nebb added that direction was given authorizing legal counsel to defend the City with regard to that action and to accept service of process with regard to same.

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

EXCUSED: Michael Menesini, Mayor

ABSENT: None.

**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.**

Russ Holt complained about the paving on Pacheco Blvd; Mayor Schroder directed Public Works Director to investigate the matter. Mr. Holt also requested that the Police Department start enforcement on bicycle riders who are not obeying traffic laws.

Dr. Robert Martin, representing California Collective Wellness in California, stated that their goal is to provide medical marijuana for individuals, and they wish to present a proposal to the City Council. Mayor Schroder stated that he would be willing to discuss the matter with him.

Luigi Di Tullio spoke on a recent accident which happened in Italy; regarding a train explosion killing and injuring many; he strongly cautioned against developing homes near the railroad track.

Paul Wilson spoke about his attendance at the Design Review meeting and the process with respect to the RCD project. He indicated that the Design Review Chair was very disrespectful to the public.

Mike Alford asked the Council not to take the month of August off, given concerns of the public during the current economic times. Mayor Schroder indicated that if something comes up a meeting can still be called during that time.

Richard Verrilli thanked the Council and staff for the crossing lights that were installed.

Jim Simmons reported on the progress at Rhodia, and he stated that both the City Manager and Chief of Police have been both accessible to meet with them. He also stated that he will continue to share information.

**CONSENT CALENDAR**

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

1. Motion approving Check Reconciliation Registers dated 06/18/2009 and 06/25/09.[C.Heater/02.01.01]
3. Resolution No. 072-09 establishing the City of Martinez Identity Theft Prevention Program. [C.Heater/02.01.00]

Councilmember DeLaney requested that Item 2 be pulled off the Consent Calendar.

Mayor Schroder opened and closed public comment for Items 1 and 3 of the Consent Calendar with no one coming forward.

On motion by Mark Ross, Councilmember, seconded by Janet Kennedy, Councilmember, to approve Items #1 and #3 of the Consent Calendar. Motion unanimously passed 4 - 0. Yes: Lara DeLaney, Councilmember, Janet Kennedy, Councilmember, Mark Ross Councilmember, and Rob Schroder, Mayor, Absent: Michael Menesini, Vice Mayor.

2. Resolution No. 071-09 authorizing the Mayor to execute addendums to the Franchise Agreements between the City of Martinez and Pleasant Hill Bayshore Disposal (now known as Allied Waste Services) for Solid Waste and Residential Recycling services. [M.Chandler/31.02.00]

Councilmember DeLaney commented on the great service that Allied Waste has provided. She reviewed some of the services offered; and encouraged the public to take full advantage of them.

Mayor Schroder opened and closed public comment on the item, with no speakers coming forward.

On motion by Lara DeLaney, Councilmember, seconded by Mark Ross Councilmember, to approve Resolution No. 071-09 authorizing the Mayor to execute addendums to the Franchise Agreements between the City of Martinez and Pleasant Hill Bayshore Disposal (now known as Allied Waste Services) for Solid Waste and Residential Recycling services. Motion unanimously passed 4 - 0. Yes: Lara DeLaney, Councilmember, Janet Kennedy, Councilmember, Mark Ross Councilmember, and Rob Schroder, Mayor, Absent: Michael Menesini, Vice Mayor.

#### **PUBLIC HEARING(S)**

4. Public hearing to consider an ordinance amending Title 8, Health and Safety, of The Martinez Municipal Code by adding Chapter 8.50 Seismic Hazard Retrofit Program for Unreinforced Masonry Buildings. [D.Scola/9.16.05]

Public Works Director Dave Scola presented the staff report.

Councilmember DeLaney asked, and Mr. Scola confirmed there are currently 60 buildings needing retrofit. He also noted that all but one are in the medium-low risk categories. Mayor Schroder opened the public hearing.

Richard Verrilli asked what happens if the property owners don't comply. Mr. Scola reviewed the timelines for compliance, indicating that if any of the required standards are not met, the City can order the building vacated.

Mayor Schroder commented on the appeals process that has been added to the ordinance, for hardship cases. Councilmember DeLaney asked for clarification as to whether the Public Works Director or the Appeals Board would make the decision on appeals cases. Mr. Scola stated that the Public Works Director would choose three others to serve on the panel with him, and they would make the decision. Councilmember DeLaney asked to have that made clearer in the ordinance. Staff agreed to the change.

Councilmember Ross asked what happens if there is a tie among the 4-member appeal board. Mr. Scola said it would pass in that case. Councilmember Ross asked about conflict with ADA and green building ordinances. Mr. Scola said he did not think there would be a conflict, and the normal appeal process would apply.

Paul Wilson commented on the hiring of a civil or structural engineer to review the drawings, at the cost of the property owner. He also expressed appreciation for the provision that requires immediate action on the part of the property owner if at any time a building is deemed unsafe. He noted that demolition is not the only option if the property owner determines the cost of retrofit is too great, because there might be someone else willing to take on the challenge. He expressed appreciation for the ordinance, especially since public safety will be improved.

Mike Alford asked about the history of the ordinance, and Mayor Schroder confirmed that the State set some guidelines in 1990, and the City enacted its current voluntary ordinance as a result. Mr. Alford said he thought the process should be accelerated now, given that it has been 19 years, and the number of small quakes in the area has been increasing.

Albert Turnbaugh said he was fully supportive of an seismic retrofit ordinance, but he did not think the proposed ordinance would suffice. He thought residential buildings should also be included, and there are also unsafe buildings that are not masonry buildings. He also questioned whether the City should be able to require additional review of the property owner's plans, even if they were drafted by a qualified professional; and he suggested some financing mechanism for the improvements since some banks won't finance these types of repairs at this time.

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

Mayor Schroder commented on the process used in developing the ordinance, including meetings with property owners. He also noted that Walnut Creek enacted its ordinance twenty years ago, and somehow property owners (including himself) there were able to comply. He felt strongly that the ordinance, as drafted, is necessary to ensure public safety, one of the primary roles of the Council. He acknowledged that a similar ordinance might be necessary for residential buildings in the future, and that there should be retrofit guidelines for frame residential structures. He also acknowledged that the lending environment at this time is not very favorable, and perhaps there should be provision for suspending the ordinance until it changes.

Councilmember DeLaney disagreed with the provision to exempt "residential buildings with 5 or fewer units." Councilmember DeLaney also asked about the appeal process, and the statement in the ordinance that the decision of the appeal board is final. Ms. Nebb reviewed the appeal process outlined in the ordinance, confirming that as written the ordinance does not allow appeals beyond the appeal board.

Councilmember DeLaney acknowledged that loans for financing the repairs might be difficult to get at this point, but the ordinance allows up to 6 years for compliance and hopefully the economic situation will improve before then. She expressed support for passing the ordinance as quickly as possible.

Councilmember Ross noted that a redevelopment agency would be able to lend money for these kinds of improvements. He agreed that the criteria for financing are very tight. He also agreed with Councilmember DeLaney that residential property of less than 5 units should not be exempted. Mr. Scola said that preparation of a residential ordinance has begun, primarily because there are no retrofit guidelines for residential units.

Mr. Scola also responded to Mr. Turnbaugh's concern about the City being able to hire an outside professional to review plans brought in by the property owner. He noted that it is rarely needed, but occasionally drawings are brought in that are not consistent with standard design.

Councilmember Ross said he would like to see some provision in the future to include residential projects with 2-5 units, as well as a fee structure for the ordinance, although he was supportive of passing the ordinance tonight.

Ms. Nebb indicated it would be possible to introduce the ordinance as written, with later amendments related to residential units and to change the appeal process if needed.

Councilmember Ross thanked the Subcommittee and staff for their hard work on the ordinance.

Councilmember Kennedy commented on the deliberative process, including input from the public and stakeholders. She expressed interest in a residential URM ordinance, perhaps on a voluntary basis in the beginning.

On motion by Janet Kennedy, Councilmember, seconded by Lara DeLaney, Councilmember, introduce an ordinance amending Title 8, Health and Safety, of The Martinez Municipal Code by adding Chapter 8.50 Seismic Hazard Retrofit Program for Unreinforced Masonry Buildings. Motion unanimously passed 4 - 0. Yes: Lara DeLaney, Councilmember, Janet Kennedy, Councilmember, Mark Ross Councilmember, and Rob Schroder, Mayor, Absent: Michael Menesini, Vice Mayor.

## **CITY MANAGER**

5. Adopt a Resolution No. 073-09 authorizing the City Manager to establish an Installment Payment schedule for payment of development Application Fees on residential projects with 50 or more units. [K.Majors/02.02.09]

Assistant City Manager Community Economic Development Karen Majors presented the staff report.

Councilmember Kennedy asked how the 50-unit threshold was determined. Ms. Majors said that it is usually the larger projects that generate higher fees. She indicated the Council can raise or lower the amount if they wish.

Councilmember Ross observed that for a small project, \$50,000 can be a lot of money. Mayor Schroder suggested setting a dollar amount for the deposit instead. Councilmember DeLaney asked how other jurisdictions handle similar programs. Ms. Majors deferred to the applicant, since staff had not been able to research that.

Ms. Nebb said that in other jurisdictions represented by her firm, staff decides what a reasonable amount is.

Sal Evola, Discovery Builders, discussed the economic situation that necessitates the request for the City to consider an installment program for development fees. He mentioned other jurisdictions that have enacted similar programs, noting that some allow for a small deposit with

billings for staff time as the project proceeds. He expressed appreciation for the City's consideration. Mayor Schroder said he would like to do anything possible to encourage development in these hard economic times. He thought \$50,000 was too high.

Councilmember Kennedy suggested that the program be flexible, depending on the size of the project and the amount of anticipated fees. Councilmember DeLaney said she was comfortable leaving it up to staff, within certain parameters. Councilmember Ross recommended a base amount of \$20,000, with sequential payments to follow.

Mayor Schroder opened public comment on the item.

Paul Wilson questioned whether all types of developments would be included. He thought each development should be considered on a case-by-case basis, noting that different types will have different costs associated.

Mike Alford said the City should jump on this opportunity, given the type of project, the location and the difficult economy.

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

Councilmember DeLaney indicated she agreed the City should do anything it can to encourage development. She thought staff should be given as much flexibility as possible.

Councilmember Ross agreed that the payment options should be available to any residential project, subject to staff review and decision. Councilmember Kennedy said she agreed as well, with the exception of remodeling projects.

Councilmember DeLaney said she thought the option should be available to commercial projects also. Ms. Nebb noted that the program could apply to commercial projects if the 50-unit threshold is removed. She also added that most jurisdictions do require that the development fees are paid in full prior to issuance of a certificate of occupancy. She recommended amendments that should be made to the resolution to reflect the changes discussed by the Council.

On motion by Lara DeLaney, Councilmember, seconded by Mark Ross Councilmember, to approve Resolution No. 073-09 authorizing the City Manager to establish an Installment Payment schedule for payment of development Application Fees and amending the title by, deleting 50 or more units and the word residential, making it applicable to commercial projects; fifth Whereas, remove 50 or more units, allowing proposal to be made to other developers; and final change being made in the Now, Therefore, be it Resolved; ...payment of development application fees be determined on a case by case basis removing on projects with 50 or more units. Motion unanimously passed 4 - 0. Yes: Lara DeLaney, Councilmember, Janet Kennedy, Councilmember, Mark Ross Councilmember, and Rob Schroder, Mayor, Absent: Michael Menesini, Vice Mayor.

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

City Manager Phil Vince reported that as of today, the State still has not passed a budget. There was brief discussion among the Council of other State legislative news.

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

No comments made.

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

### **CITY COUNCIL**

8. City Council Comments.

Councilmember Janet Kennedy encouraged the public to attend the 4th of July celebration downtown beginning with a Pancake Breakfast at the Oddfellows Hall at 8:00 a.m. She also congratulated Dr. Jeff Smith, recently named as the new County Administrator for Santa Clara County.

Councilmember Lara DeLaney requested staff to develop a "fee waiver program" for 2 to 4 years to give incentives to owner occupied housing in the downtown and to businesses. She further indicated that staff review the costs for such a program in lost revenue vs. implementation of the downtown specific plan, to which the Council agreed.

Councilmember Mark Ross wished all a safe and happy 4th of July.

Mayor Schroder announced that the July 4<sup>th</sup> Pancake Breakfast had been cancelled, but the celebration will begin with a parade at 10:00 a.m. with events and booths in the Main Street Plaza, and end with fireworks at sunset (around 9:00 p.m.) at the waterfront.

## **ADJOURNMENT**

Adjourned at 8:45 p.m. then to a Regular Meeting on July 15, 2009 at 7:00 p.m. in the Council Chambers, 525 Henrietta Street, Martinez, CA.

Approved by the City Council

Rob Schroder, Mayor

Mercy G. Cabral, Deputy City Clerk – 9/2/09

## **CALL TO ORDER**

Councilmember Lara DeLaney called the meeting to order at 6:00 p.m. in the Council Chambers with all members present except Mayor Rob Schroder who was excused and Vice Mayor Menesini who arrived shortly after roll call.

Assistant City Manager Karen Majors announced that the Ostrosky session was canceled.

## **CLOSED SESSION**

- A. CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION pursuant to California Government Code subdivision (a) of Section 54956.9. Name of Case: Gonzales v. City of Martinez, Claim #: CV081754.Gonzales.
- B. CONFERENCE WITH LEGAL COUNSEL--Existing Litigation pursuant to Cal. Gov't Code section 54956.9(a). Name of Case: Ostrosky v. City of Martinez

There being no public comments, the Council adjourn to the City Manager's Office for closed session.

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

The meeting reconvened at 7:15 p.m. in the Council Chambers. Vice Mayor Menesini reported that a closed session was held, with nothing to report out.

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

## **PUBLIC COMMENT**

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

Phil Ciarantaro gave an overview of the presentation he made to the Parks, Recreation, Marina and Cultural Commission regarding the ferry point improvement project.

An unidentified speaker clarified statements he made in the past about resolving neighborhood issues. He indicated that he and Mike Alford had met and cleared up the misunderstanding between them. He also clarified why he pulled his subdivision application, even though the Council seemed ready to approve it; however, the City Attorney was not supportive. He stated that if someone wants to talk about him, they should speak face to face.

Mike Alford stated that he has contacted a company that deals with hydrogen to improve air quality, and he had taken Public Works Director Dave Scola and Councilmember Ross to see the product. He noted that the company has tried to contact the City, but no one has returned their calls. Mr. Alford requested that the City staff contact them to schedule a presentation before the Council.

Seeing no further speakers, Vice Mayor Menesini closed public comment.

Item 24 taken out of order.

24. Resolution amending the Fiscal Year 2009-2010 operating budget appropriating \$500,000 from the City's General Fund balance to the Martinez Unified School District as an in-kind loan. [P.Vince/6.10.01]

Assistant City Manager Karen Majors presented the staff report. Councilmember DeLaney asked for a copy of the reciprocal use agreements, to which Ms. Majors agreed. She summarized the terms of the agreements.

Councilmember DeLaney asked why the agreement was never put into effect. Mr. Scola indicated that some of the terms were met, but the water bill payment was never requested of the City. Councilmember DeLaney asked the term of the agreement. Mr. Scola said he didn't think there was an end time for it. Councilmember Ross briefly discussed the history and the total of the water bills that were supposed to have been paid by the City for District use (and which is proposed to be forgiven through this new agreement). Councilmember DeLaney asked who would pay the bills in the future, and Councilmember Ross indicated the District would for the next 5 years, but after that it would fall to the City again.

Vice Mayor Menesini said he would like to hear the City Attorney's response to the proposal, asking whether the District has threatened litigation against the City. Councilmember Ross said there is no pending or threatened litigation by the District. He was concerned about documentation of the unpaid bills.

Councilmember DeLaney also asked about use of the District's Performing Arts building and the amount that will be credited, and the cost for parking at the Corp Yard.

In response to a question from Councilmember Ross, Superintendent Rami Muth discussed how she sees the agreement could work, as a cooperative effort between the City and the District to realize mutual economic benefit through in-kind facility use. She used the example of the City using the high school pool for lessons while Rankin pool is being renovated.

Councilmember Ross commented on the mutual benefit to the City, the District and the public from the proposed financial arrangements, citing repayment of the overlooked water bills, use of the high school pool and performing arts center, and parking space for City vehicles during the City's construction of a new Corporation Yard.

Vice Mayor Menesini asked when a draft agreement would be drafted by the City Attorney's office. City Attorney Jeff Walter said if the Council approves the arrangement in concept, a draft agreement could be done early next week.

Councilmember DeLaney asked Assistant City Manager Administrative Services Lianne Marshall if the amount owed to the District by the City could be charged to the Water Enterprise Fund. Ms. Marshall said no because costs charged to the Water Enterprise Fund are billed to the user.

Vice Mayor Menesini opened public comment on the item.

Rich Verrilli commented on the fiscal impact statement that says "the loan to the Martinez School District will not impact..." He suggested it should say "need not impact" instead. Mr. Verrilli asked whether there should be a condition in the agreement that stipulates what the funds will be used for. Ms. Muth stated that she would like to keep some flexibility, to ensure that the best interests of the students are protected. She agreed that the intent of the loan is to ensure smaller class sizes and preserve teacher jobs.

Councilmember Kennedy noted that the language Mr. Verrilli was referring to is in the resolution, not in the loan agreement. Vice Mayor Menesini said he would like to clarify that.

Mike Alford expressed surprise that the past water costs had not been brought up previously; he thought it should not be included in this discussion.

Seeing no further speakers, Vice Mayor Menesini closed public comment.

Vice Mayor Menesini clarified that the purpose of this item tonight was to amend the budget to allow for the disbursement of funds to the District, but he reiterated his concern that a loan agreement needs to be negotiated between the two parties. He agreed with Councilmember DeLaney that the amount to be credited for truck parking seems to be high. He expressed support, however, for amending the budget to allow for the transfer of funds, subject to an acceptable agreement being drafted.

Councilmember Ross asked what timeframe the District is facing. Ms. Muth said the rescinding of the layoff notices could not be done until the funding is approved. She was concerned that the Council recess in August could delay the approval. Vice Mayor Menesini indicated that the Council could schedule an emergency meeting to handle the matter if necessary.

School Boardmember Ron Skrehot expressed concern about further delays, noting that the City had not requested a draft agreement be in place before the approval would be granted. While he was frustrated at new requirements being added to the process, he indicated that the District will do whatever it can to address the City's issues. He was confident that the Board could meet within the next ten days to finalize their approval.

Rick Rubino, Assistant Superintendent for the District, commented on the urgency of the decision - both to bring back teachers and restore 20:1 class size, and also to allow hiring of four additional teachers. He was concerned that the better quality teachers will have already been hired by the time the District knows whether the City will approve the agreement. The Council directed staff to schedule a meeting with the Council Subcommittee and the MUSD School Board Subcommittee for Tuesday, July 21st at noon.

Motion to approve amendment of the Fiscal Year 2009-2010 operating budget appropriating \$500,000 from the City's General Fund balance to the Martinez Unified School District as previously agreed; and authorize the City Attorney to draft an agreement with respect to the types of in-kind or other provisions of the loan between the City and the MUSD; and to authorize the City Manager (or his designee) to negotiate the agreement along with Council Subcommittee, School District Subcommittee, and staff to facilitate the negotiation of a more specific agreement; and draft a new resolution to be ratified by the Council at a future meeting. Moved by Michael Menesini, Vice Mayor, seconded by Janet Kennedy, Councilmember.

Councilmember Ross expressed concern about the impact of further delays on the District, especially since the District has come before the Council twice already. He did not see any need for additional meetings. He asked to offer a substitute motion; Vice Mayor Menesini declined and asked for a vote on the motion already on the table.

Motion Carried 3-1. Yes: Janet Kennedy, Councilmember, Mark Ross Councilmember, Michael Menesini, Vice Mayor. No: Lara DeLaney, Councilmember. Absent: Rob Schroder, Mayor.

Staff directed to schedule a Council meeting on Friday, July 24th at 5:30 p.m. to approve the agreement.

*The Council recessed for 15 minutes and reconvened with all members present as indicated.*

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

### **A. Bond Oversight Committee Update.**

City Treasurer Carolyn Robinson reviewed duties of the Bond Oversight Committee and named the appointed members. She gave an update of their first meeting held on June 17th. Ms. Robinson stated the next meeting is scheduled some time in October, and she will make another update.

Councilmember DeLaney asked if the Oversight Committee had reviewed the allocation to hire a design consultant for the pool renovation. City Engineer Tim Tucker clarified that the committee will be responsible for reviewing expenditures, and not be involved in selecting consultants or reviewing work agreements.

Councilmember DeLaney asked what the interest rate was for the LAIF account. Ms. Robinson said it was about 2%. Councilmember Ross noted that Item 11 on the Consent Calendar was also related to the bond.

Vice Mayor Menesini opened public comment on the item.

Rich Verrilli asked about Al Turnbaugh's recommendation to the Parks & Recreation Commission. He expressed preference for Mr. Turnbaugh's suggestion, noting it was a larger space and already handicapped accessible.

Vice Mayor Menesini said he thought Mr. Verrilli's comments applied more to Item 11; perhaps it could be discussed at that time.

Seeing no further speakers, Vice Mayor Menesini closed public comment.

## **CONSENT CALENDAR**

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

1. Motion approving City Council Minutes of June 3, June 24, and June 29, 2009. [M.Cabral]
2. Motion rejecting claim against the City by Linnie Mae Martin, Claim #09-04. [M.Cabral]
3. Motion approving the Cash and Investment Summary Report for June 30, 2009. [C.Heater/02.01.01]
4. Motion accepting Check Reconciliation Registers dated 06/30/09, 07/01/09, and 07/08/09. [C.Heater/02.01.01]
5. Motion approving Ordinance 1353 C.S. amending Title 8, Health and Safety, of the Martinez Municipal Code by adding Chapter 8.50, Seismic Hazard Retrofit Program for Unreinforced Masonry Buildings. [D.Scola/9.16.05]
6. Resolution No. 074-09 authorizing the City Manager to negotiate and execute a consultant services contract with the most qualified design consultant for the Martinez Municipal Pool Renovation project, in an amount not to exceed \$600,000. [T.Tucker/10.05.03&11.04.02]
7. Resolution No. 075-09 accepting bids and awarding the construction contract for the Building Demolition; 350 and 360 Ferry Street, Project No. C6006, to Thomas D. Eychner Co., Inc. [T.Tucker/05.23.00&10.13.08]
8. Resolution No. 076-09 accepting the H Street Storm Drain Replacement Project per contract documents and instructing the City Clerk to File a Notice of Completion. [T.Tucker/10.04.01&12.07.00]
9. Resolution No. 077-09 authorizing the Mayor to sign a letter requesting Caltrans to establish the acquisition of a right-of-way and the construction of a Pedestrian and Bikeway Path between the Martinez-Benicia Bridge and Marina Vista. [T.Tucker/03.03.00]
10. Resolution No. 078-09 approving an amendment granting a 150 day extension pursuant to Section 4.01a of the Purchase and Sale Agreement for the 630 Court Street Project with Goldenberg and Associates, and authorizing the City Manager to negotiate and execute the amendment in a form acceptable to the City Manager and City Attorney. [K.Majors/5.15.00]
11. Resolution No. 079-09 Authorizing the City Manager to enter into a contract with Barry and Vlokman for professional design services to expand the Martinez Public Library in an amount not to exceed \$95,000. [T.Tucker/5.18.00&10.05.03]

12. Resolution No. 080-09 authorizing the City Manager to execute a funding agreement with Contra Costa County, Community Development Block Grant Under the American Recovery and Reinvestment Act of 2009 (CDBG-R) program in the amount of \$40,000; and to authorize the allocation of \$30,000 of Gas Tax funds to Account Number C1010 for the 2009 Sidewalk Replacement Project. [T.Tucker/9.14.00&12.02.00]
13. Resolution No. 081-09 approving and authorizing the City Manager to execute a lease agreement with Superior Court of California/County of Contra Costa for a portion of 360 Ferry Street (Zocchi building) in a form approved by the City Manager and City Attorney. [M.Chandler/5.23.00/06.01.10]
14. A. Resolution approving a "Corrective Deed Agreement" with Charles Curtis and Marte Flores to correct a grand deed recorded on June 28, 1983 in Book 11314, Page 836 (Document 83-82759) and authorize the City Manager to execute the agreement; and  
B. Authorize the recordation of the resolution with the "Corrective Deed Agreement" and the "Corrective Deed" at the Contra Costa County Recorder Office.[T.Tucker/Deed List]

Vice Mayor Menesini opened public comment on the Consent Calendar.

Phil Ciarimontaro commented on Item #7 regarding salvage materials at the Zocchi property that should be carefully removed and stored for re-use. In response to a question from Vice Mayor Menesini, Ms. Majors noted that the proposed bid already includes the recycling of materials from the existing structures. Mr. Tucker also noted there are very detailed waste management plan requirements. Vice Mayor Menesini acknowledged the pilings are worth re-using and recycling.

Councilmember DeLaney confirmed that the demolition costs would be paid for by Measure J money. She questioned whether it would be better for the City to retain ownership of the recyclables, rather than the developer. Mr. Tucker indicated that staff thought the taxpayers would benefit more from the proposed arrangement, which is most appropriate since Measure J funds come from the taxpayers.

Councilmember Ross asked whether the cost savings from selecting this developer would help the City pay for other areas of the project that are under funded.

Vice Mayor Menesini said he would like written assurance that the developer plans to re-use the materials rather than just hauling them off to the dump. Mr. Tucker said the developer will need to provide a waste management plan to be approved by the City.

Mike Alford agreed with Councilmember DeLaney that the City should keep ownership of the materials and ensure that salvage is included in the proposal. Regarding Item #6, Mr. Alford expressed concern about the \$600,000 to be spent on a consultant. He also questioned whether the Hilson's building was the best option for the library. Mr. Tucker indicated that the use of a design consultant for the pool project was because of the need to fast-track the project, in order to avoid missing a swim season. He noted that the \$600,000 represents 10% of the total project cost, which is a standard amount for design services.

Vice Mayor Menesini said he would like to see the design parameters for the pool project. Mr. Tucker said there will be many opportunities for public input in the design process.

Seeing no further speakers, Vice Mayor Menesini closed public comment on the Consent Calendar.

Councilmember Mark Ross noted that he will be recusing himself from Item #14, Corrective Deed Agreement with Charles Curtis and Marte Flores, since he owns property almost adjacent to the property owners. He also commented on Item #9, noting that the bikeway path on the Martinez-Benicia bridge is almost finished, with the dedication set for August 29th on the Benicia side. Mr. Tucker indicated that staff was working closely with Caltrans in the plans for a striped bike lane.

Regarding Item #13, Councilmember Ross also commented on the lease of the remaining buildings that will not be torn down. He asked that the City look for a better use of the property than just County storage. Councilmember DeLaney clarified that it is the State Superior Court that will be using the property, not the County. She also confirmed with staff that the lease is a month-to-month lease, allowing for better use of the site if the opportunity presents itself.

With respect to Item #5, Ordinance 1353, Unreinforced Masonry Buildings, Councilmember Kennedy requested that she would like to work with staff in preparing a grant through FEMA for funding for seismic retrofitting.

Motion to approve Items #1 through #13 of the Consent Calendar. Moved by Janet Kennedy, Councilmember, seconded by Lara DeLaney, Councilmember.  
The Council voted to approve unanimously.

Motion to approve Item #14, Resolution No. 082-09 approving a "Corrective Deed Agreement" with Charles Curtis and Marte Flores to correct a grand deed recorded on June 28, 1983 in Book 11314, Page 836 (Document 83-82759) and authorize the City Manager to execute the agreement; and authorize the recordation of the resolution with the "Corrective Deed Agreement" and the "Corrective Deed" at the Contra Costa County Recorder Office. Moved by Janet Kennedy, Councilmember, seconded by Lara DeLaney, Councilmember. The Council voted to approve: Yes: Lara DeLaney, Councilmember, Janet Kennedy, Councilmember, Michael Menesini, Vice Mayor. Recused: Mark Ross Councilmember. Absent: Rob Schroder, Mayor.

## **PUBLIC HEARING(S)**

Vice Mayor Menesini opened and closed public comment on Items #15-22, with no speakers coming forward.

15. Public hearing on Landscaping and Lighting Assessment District for 1979-3 Village Oaks Terrace and approve the following: [T.Tucker/10.02.34]
  - A. Ordering any changes in improvements, report, diagram, or assessments.
  - B. Resolution No. 083-09 approving the Engineer's report, and confirming the district diagram and assessments for the 2009-2010 fiscal year.

- C. Resolution overruling protests (if required, must be adopted by 4/5 vote). (Not needed)

Motion to approve Landscaping and Lighting Assessment District for 1979-3 Village Oaks Terrace, ordering any changes in improvements, report, diagram, or assessments; and Resolution No. 083-09 approving the engineer's report and confirming the district diagram and assessment for the 2009-10 fiscal year.

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

- 16. Public hearing on Landscaping and Lighting Assessment District for 1981-3 Muir Station and approve the following: [T.Tucker/10.02.15]

- A. Ordering any changes in improvements, report, diagram, or assessments.
- B. Resolution No. 084-09 approving the Engineer's report, and confirming the district diagram and assessments for the 2009-2010 fiscal year.
- C. Resolution overruling protests (if required, must be adopted by 4/5 vote). (Not needed.)

Motion to approve Landscaping and Lighting Assessment District for 1981 Muir Station, ordering any changes in improvements, report, diagram, or assessments; and Resolution No. 084-09 approving the engineer's report and confirming the district diagram and assessment for the 2009-10 fiscal year.

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

- 17. Public hearing on Landscaping and Lighting Assessment District for 1983-3 Vista Oaks and approve the following: [T.Tucker/10.02.21]

- A. Ordering any changes in improvements, report, diagram, or assessments.
- B. Resolution No. 085-09 approving the Engineer's report, and confirming the district diagram and assessments for the 2009-2010 fiscal year.
- C. Resolution overruling protests (if required, must be adopted by 4/5 vote).

Motion to approve Landscaping and Lighting Assessment District for 1983-3, Vista Oaks, ordering any changes in improvements, report, diagram, or assessments; and Resolution No. 085-09 approving the engineer's report and confirming the district diagram and assessment for the 2009-10 fiscal year.

Moved by Mark Ross Councilmember, seconded by Lara DeLaney, Councilmember.  
The Council voted to approve unanimously.

- 18. Public hearing on Landscaping and Lighting Assessment District for 1988-1 The Center Martinez and approve the following: [T.Tucker/10.02.31]

- A. Ordering any changes in improvements, report, diagram, or assessments.
- B. Resolution No. 086-09 approving the Engineer's report, and confirming the district diagram and assessments for the 2009-2010 fiscal year.
- C. Resolution overruling protests (if required, must be adopted by 4/5 vote).

Motion to approve Landscaping and Lighting Assessment District for 1988-1 The Center Martinez, ordering any changes in improvements, report, diagram, or assessments; and Resolution No. 086-09 approving the engineer's report and confirming the district diagram and assessment for the 2009-10 fiscal year.

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

19. Public hearing on Landscaping and Lighting Assessment District for 1994-1 Creekside and approve the following: [T.Tucker/10.02.36]
  - A. Ordering any changes in improvements, report, diagram, or assessments.
  - B. Resolution No. 087-09 approving the Engineer's report, and confirming the district diagram and assessments for the 2009-2010 fiscal year.
  - C. Resolution overruling protests (if required, must be adopted by 4/5 vote).

Motion to approve Landscaping and Lighting Assessment District for 1994-1 Creekside, ordering any changes in improvements, report, diagram, or assessments; and Resolution No. 087-09 approving the engineer's report and confirming the district diagram and assessment for the 2009-10 fiscal year.

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

20. Public hearing on Landscaping and Lighting Assessment District for 1997-1 Brittany Hills and approve the following:[T.Tucker/10.02.37]
  - A. Ordering any changes in improvements, report, diagram, or assessments.
  - B. Resolution No. 088-09 approving the Engineer's report, and confirming the district diagram and assessments for the 2009-2010 fiscal year.
  - C. Resolution overruling protests (if required, must be adopted by 4/5 vote).

Motion to approve Landscaping and Lighting Assessment District for 1997-1 Brittany Hills, ordering any changes in improvements, report, diagram, or assessments; and Resolution No. 088-09 approving the engineer's report and confirming the district diagram and assessment for the 2009-10 fiscal year.

Moved by Mark Ross Councilmember, seconded by Lara DeLaney, Councilmember. The Council voted to approve unanimously.

21. Public hearing on Landscaping and Lighting Assessment District for 2000-2 Terra Vista and approve the following:[T.Tucker/10.02.40]
  - A. Ordering any changes in improvements, report, diagram, or assessments.
  - B. Resolution No. 089-09 approving the Engineer's report, and confirming the district diagram and assessments for the 2009-2010 fiscal year.
  - C. Resolution overruling protests (if required, must be adopted by 4/5 vote).

Motion to approve Landscaping and Lighting Assessment District for 2000-2 Terra Vista, ordering any changes in improvements, report, diagram, or assessments; and Resolution No. 089-09 approving the engineer's report and confirming the district diagram and assessment for the 2009-10 fiscal year. Moved by Mark Ross Councilmember, seconded by Janet Kennedy, Councilmember. The Council voted to approve unanimously.

22. Public hearing on Landscaping and Lighting Assessment District for 2001-1 Alhambra Estates:[T.Tucker/10.02.41]
  - A. Ordering any changes in improvements, report, diagram, or assessments.
  - B. Resolution No. 090-09 approving the Engineer's report, and confirming the district diagram and assessments for the 2009-2010 fiscal year.
  - C. Resolution overruling protests (if required, must be adopted by 4/5 vote).

Motion to approve Landscaping and Lighting Assessment District for 2001-1 Alhambra Estates, ordering any changes in improvements, report, diagram, or assessments; and Resolution No. 090-09 approving the engineer's report and confirming the district diagram and assessment for the 2009-10 fiscal year.

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

#### **CITY MANAGER**

23. Provide staff with comments regarding the initiation of the update to the City's General Plan. [K.Majors/09.02.00]

Assistant City Manager Karen Majors deferred to Terry Blount, Planning Manager, who presented the staff report on the General Plan update.

The Council gave favorable comments to the general outline and process, with encouragement to staff to consider making Climate Change an additional element to the Plan which would incorporate SB375 into the General Plan.

Mr. Blount also encouraged the public to attend a workshop to update the Housing Element on Monday, August 10, from 7:00-9:00 p.m., in the Council Chambers.

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

Assistant City Manager Karen Majors stated that as of midnight tonight Lianne Marshall will be in charge of City operations.

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

No comments made.

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

27. Approving appointment of Councilmember Lara DeLaney as Voting Delegate to the League of California Cities Annual Conference and appoint Councilmember Janet Kenney as Alternate Voting Delegate. [41.02.00]

Motion to approve appointment of Councilmember Lara DeLaney as Voting Delegate to the League of California Cities Annual Conference and appoint Councilmember Janet Kenney as Alternate Voting Delegate.

Moved by Michael Menesini, Vice Mayor, and no second required. The Council voted to approve unanimously.

- 28.A. Appointments to the Planning Commissions: Appoint Michael Marchiano and Jeffery Keller as Planning Commissioners; and Rachael Ford as Alternate. [16.06.01]

Motion to approve appointment of Michael Marchiano and Jeffery Keller as Commissioners; and Rachael Ford as Alternate to the Planning Commission.

Moved by Michael Menesini, Vice Mayor, and no second required. The Council voted to approve unanimously.

- B. Reappointments to Commissions and Committee: Harland Strickland and Rita Weiler-Williams to the Cemetery Commission. [16.01.01] Vito Magliano and Anthony Semenza to the Civil Service Commission. [16.02.01] Isidro Farias, Brian Killian, Eileen Tumlin, and Jim Passaglia to the Design Review Committee.[16.11.01] Harriett Burt, Frank Kluber, and Lynette Tanner-Busby to the Planning Commission. [16.06.01] Sandra Minjack Evans to the Veterans Commission. [16.07.01]

Motion to approve Reappointments to Commissions and Committee for an additional term as follows: Harland Strickland and Rita Weiler-Williams to the Cemetery Commission; Vito Magliano and Anthony Semenza to the Civil Service Commission; Isidro Farias, Brian Killian, Eileen Tumlin, and Jim Passaglia to the Design Review Committee; Harriett Burt, Frank Kluber, and Lynette Tanner-Busby to the Planning Commission; and Sandra Minjack Evans to the Veterans Commission.

Moved by Michael Menesini, Vice Mayor, and no second required. The Council voted to approve unanimously.

- C. Approving appointments to Outside Agencies: Appoint Connie Whiting to the CCCTA (County Connection) Accessible Services Committee [6.07.01]; and Barbara Seaver to the Contra Costa County Council on Aging [05.07.01].

Motion to approve appointments to Outside Agencies: Connie Whiting to the CCCTA (County Connection) Accessible Services Committee; and Barbara Seaver to the Contra Costa County Council on Aging.

Moved by Michael Menesini, Vice Mayor, and no second required. The Council voted to approve unanimously.

## **CITY COUNCIL**

### 29. City Council Comments.

Councilmember Lara DeLaney announced that there may be a deal in the works to settle the State budget crisis by taking the gas tax funds from cities over the next two years which is estimated for the City of Martinez to be \$1.2 million, and Prop 1A monies which will be a loan to the State will total \$800,000 for the City.

Councilmember Mark Ross asked about the progress for the 911 memorial services, which Chief Simonetti discussed.

Vice Mayor Michael Menesini announced the passing of retired city employee Steve Jespersen, who served the City for 18 years as Director of Recreation and Community Services. Steve passed away on July 10, and Vice Mayor Menesini requested that the meeting be adjourned in his memory.

## **ADJOURNMENT**

Adjourned at 9:36 p.m. *in Memory of Steve Jespersen, Retired City Employee*, to Friday, July 24, at 5:30 p.m. then to a *Summer Recess* during the month of August, then to a Regular Meeting on September 2, 2009, at 7:00 p.m. in the Council Chambers, 525 Henrietta Street, Martinez, California.

Approved by the City Council,

Rob Schroder, Mayor

Mercy G. Cabral, Deputy City Clerk – 9/2/09

**CALL TO ORDER - PLEDGE OF ALLEGIANCE - ROLL CALL**

Mayor Rob Schroder called the meeting to order at 7:05 p.m. in the Council Chambers.

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

**EXCUSED:** None.

**ABSENT:** None.

**PUBLIC COMMENT (COMPLETE SPEAKER CARD AND GIVE TO CLERK)**

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

No comments made.

**CONSENT CALENDAR**

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

1. Motion rejecting Claim against the City by Josette and Ed Ogan, Claim No. 09-06. [M.Cabral]
2. Motion approving Check Reconciliation Registers dated 07/14/09 and 07/15/09. [C.Heater/02.01.01]

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

3. Resolution amending the Fiscal Year 2009-2010 Operating Budget appropriating \$500,000 from the City's General Fund Balance to the Martinez Unified School District. [J.Walter/02.10.00&06.10.01]

Councilmember Lara DeLaney stated that it was the Council responsibility to ensure that the monies are kept in reserve and used for the City projects and future labor negotiations. Councilmember DeLaney further stated that it was fiscal irresponsibility to amend the budget.

On motion by Mark Ross, Councilmember, seconded by Janet Kennedy, Councilmember, to approve Resolution No. 091-09 amending the Fiscal Year 2009-2010 Operating Budget appropriating \$500,000 from the City's General Fund Balance to the Martinez Unified School District. Motion passed 4-1. No: L.DeLaney, Councilmember. Rest, Ayes.

## CITY COUNCIL

4. Consider and possibly take action to approve an agreement between the City of Martinez and the Martinez Unified School District (MUSD) under which the City shall provide \$500,000 to the MUSD. [K.Majors&J.Walter/6.10.01]

Mayor Schroder stated that he was in favor of giving the School District the entire \$500,000 as a grant; however he did not have the votes and had to compromise his position which turned out to be a loan/fee agreement.

Councilmember Mark Ross commented that as the hometown of John Swett, founder of the California educational system, it was appropriate for the City to provide the gap funding to keep our kids from having gaps in their education; as you can rebuild infrastructure, you can't rebuild kids.

Councilmember Lara DeLaney's comments were not recorded.

Vice Mayor Michael Menesini stated that the services agreement was a framework for future City/School District cooperation that could include a joint Corporation Yard. He expressed the need for a written agreement, to be approved by the School Board and the Council, in order to obviate confusion with regard to this mutual commitment to joint cooperation for the benefit of the Public.

Councilmember Janet Kennedy commented on the need for a written agreement that spelled out the terms of the use of funds, repayment if any, etc. She agreed with further indicated that the agreement had to be approved by the MUSD Board.

Council discussed amendments and other options.

Mike Alford, expressed support for giving the \$500,000 to the MUSD with any repayment.

Bob Hollsinger, Vice President of the Martinez Education Association, thanked the Council for their support and stressed the importance of the grant/loan.

Liz Robbins, the Chief Budget Official for the District, on behalf of MUSD Superintendent Muth, expressed appreciation for staffs hard work and Council's cooperation and willingness to assist the District.

On motion by Mark Ross, Councilmember, seconded by Michael Menesini, Vice Mayor, to approve Resolution No. 092-09 and an agreement between the City of Martinez and the Martinez Unified School District (MUSD) under which the City shall provide \$500,000 to the MUSD and on two conditions that Exhibit A be revised to delete the City's use of the John Muir School Park area and the Morello School Park area from the "credit calculations;" and to include findings in the resolution and/or Fee for Service Agreement justifying the City's assumption of the Martinez Opera \$6024 debt to the School District as amended. Motion passed 4-1. No: L.DeLaney, Councilmember. Rest, Ayes.

5. City Council Comments.

Councilmember Janet Kennedy announced Relay for Life on August 8<sup>th</sup> at Las Juntas School and community Forum on Future Housing in Martinez on August 10<sup>th</sup> at 7:00 p.m. in the Council Chambers.

Councilmember Mark Ross announced the Beaver Festival, Bocce Tournament on August 1<sup>st</sup>.

Vice Mayor Michael Menesini requested that appointment of Gina Zagotta to the Cemetery Commission be placed on the next agenda.

**ADJOURNMENT**

Adjourned at 8:00 p.m. to a Regular City Council Meeting on September 2, 2009, at 7:00 p.m. in the Council Chambers, 525 Henrietta Street, Martinez, California.

Approved by the City Council,

Rob Schroder, Mayor

Mercy G. Cabral, Deputy City Clerk – 9/2//09