

CALL TO ORDER - PLEDGE OF ALLEGIANCE - ROLL CALL

Mayor Schroder called the meeting to order at 7:00 p.m. in the Council Chambers.

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

EXCUSED: Janet Kennedy, Councilmember.

ABSENT: None.

PRESENTATION(S)

A. City Treasurer Carolyn Robinson, Bond Oversight Committee Update.

City Treasurer Carolyn Robinson reported on the Bond Oversight Committee meeting of April 24, 2012. She briefly reviewed financial issues and ongoing projects. Ms. Robinson reported that as of March 31, the \$15 million bond account had \$3,467,428.06 remaining; the second bond of \$10 million has been sold and the proceeds after cost of issuance are \$9,870,000, which has been placed in a separate LAIF account.

City Treasurer Robinson briefly reviewed the new and ongoing projects: Sports Court Resurfacing Project which includes resurfacing of basketball and tennis courts at 6 different parks, and the status of Rankin and Tavan Field, Holiday Highland Park, Hidden Valley Park, Cappy Ricks, and Nancy Boyd.

The Council expressed appreciation for her update.

B. Grad Night donations for Alhambra High School and College Park High School.

On behalf of Alhambra High School, Jenn Wiseman and Sara Stafford accepted a \$500 donation from the City Council and expressed their appreciation. On behalf of College Park High School, Karen Golman accepted a \$500 donation and expressed her appreciation as well.

C. Update on the Joltin Joe.

Ray Raineri provided an update on the Joltin Joe. He expressed his appreciation to City Manager Philip Vince and Sr. Management Analyst Michael Chandler for their assistance. Mr. Raineri encouraged the public to donate so that the Joltin Joe can be completed, since there are still some expensive stages left, such as the engine. He thanked the Sons of Italy, Don Curtis, head of the Joltin Joe Restoration, the local Carpenters Union, and all the volunteers.

Mr. Raineri provided a PowerPoint presentation, with the assistance of Michael Chandler, depicting pictures of the progress of the Joltin Joe's refurbishment. Mr. Raineri stated that he hoped that this project will have a unifying effect.

The Council expressed their appreciation to Mr. Raineri for the presentation and for his work and attention to detail.

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

Sarah Stanford, Alhambra High School Drama Club, announced the last showing of “Once Upon a Mattress” this Thursday, Friday, and Saturday at 7:00 p.m. She encouraged the public to attend.

Debbi Zamaria, advocate for the Martinez Community Pool, introduced their new group: Rankin Aquatic Center Partners. She provided a brief overview of their goals and indicated that they were partnering with the City to support, enhance, and promote the Martinez Community Pool.

Mike Alford spoke on the Berrellesa Palms senior housing project. He warned the Council that this project will end up like the Riverhouse and advised the Council to make sure RCD stands by their word.

CONSENT CALENDAR

MOTION WAIVING READING OF TEXT OF ALL RESOLUTIONS AND ORDINANCES.

1. Motion approving City Council Minutes of April 4, 2012. [M.Cabral]
2. Motion accepting Check Reconciliation Registers dated 04/05/12, 04/16/12 and 04/19/12. [C.Spinella/2.1.1.]
3. Motion approving the City of Martinez Investment Policy. [C.Spinella/2.1.0]
4. Resolution No. 043-12 authorizing the Chief of Police to expend not more than \$45,000 in Asset Forfeiture Funds to purchase fitness equipment and make improvements to the space necessary to complete the Gym Project in the Police Department. [G.Peterson/4.8.0]
5. Resolution No. 044-12 authorizing the City Manager to execute the Management Compensation Plan (MCP) for the term of January 1, 2011 through June 30, 2015. [A.Shear/04.05.07]

On motion by Lara DeLaney, Councilmember, seconded by Michael Menesini, Councilmember, to approve Items #1 through #5 of the Consent Calendar. Motion approved 4 - 0; Absent: Janet Kennedy, Councilmember; Rest: Ayes.

PUBLIC HEARING(S)

6. Consider a continuation of a public hearing pursuant to Chapter 12.40 of the Martinez Municipal Code on Final Disposition of Property Located at 610 and 630 Court Street and approval and authorization to execute Purchase and Sale Agreement with Southport Land Corporation, Declaration of Use Restrictions, Declaration of Airspace Plan and CC&Rs, Declaration of Architectural Covenants and Conditions to May 16, 2012. [P.Vince/5.15.00&5.15.01]

On motion by Michael Menesini, Councilmember, seconded by Lara DeLaney, Councilmember, to approve continuation of a public hearing pursuant to Chapter 12.40 of the Martinez Municipal Code on Final Disposition of Property Located at 610 and 630 Court Street and approval and authorization to execute Purchase and Sale Agreement with Southport Land Corporation, Declaration of Use Restrictions, Declaration of Airspace Plan and CC&Rs, Declaration of Architectural Covenants and Conditions to May 16, 2012. Motion approved 4 - 0; Absent: Janet Kennedy, Councilmember; Rest: Ayes.

7. A. Consider an approval of an agreement voluntarily entered into between the City and Ladybugs and the landlord in regards to signage to be proposed at 533 Main Street; and
- B. Consider a resolution granting or denying an appeal of the Planning Commission's determination that Lice Removal Salons are permitted uses within the Commercial Zoning Districts (NC, CC, SC) (continued from April 18, 2012). [D.Tasini/9.4.2.16]

Dina Tasini, Contract Planner, provided the staff report. She reviewed the action that had been taken so far on the project and explained the agreement that was now before the Council. She also responded to a letter about the City's process in handling uses not included in the zoning ordinance. She explained that in the past staff had exercised latitude in fitting new types of businesses into other use categories, but they would now start using a new process for determining use categories. Councilmember DeLaney questioned Ms. Tasini about the number of new uses that are not in the zoning code. Ms. Tasini said that would only be the case in the beginning - as newer uses occur and are added, eventually the burden on the Planning Commission would not be as great.

Ms. Tasini concluded her report by reviewing the staff recommendation to uphold the appeal and return the matter to the Planning Commission for a conditional use permit or a permitted commercial use.

City Attorney Jeff Walter explained further about staff's usual process for determining use categories, noting that it is not codified anywhere in the City Zoning Ordinance or the City's policies and procedures. He recommended that the appeal be upheld and that the City give direction as to whether the use should be added as a permitted use by right or as a conditional use.

Mayor Schroder noted that he had concerns about this type of business being located as proposed and he wanted that clarified for the future. However, he also wanted to be fair to the proposed business owners, who had thought they were following the proper process. He agreed that if the codified process had not been followed, that would have created a larger problem, and he supported the upholding of the appeal. He acknowledged that amending the zoning code would be a very long process, but there were some immediate uses that needed to be added. He indicated that the rest of the code could be brought up to date during the General Plan update.

Mr. Walter clarified that if the Council just wants this particular use to be added to the ordinance that would not take very long. He suggested that the ordinance should also be corrected at the same time to prescribe a better process for addressing unlisted uses. He noted that there would be environmental considerations, but it probably would not take more than 60 days to amend the ordinance.

Vice Mayor Ross confirmed with City Attorney Walter that the letter was mostly accurate in its description of the City's rules. He expressed frustration that the Council was learning about these rules only now. He stated that he appreciated the City staff's informal approach to procedure, but noted that it was not fair to the proposed business owners who had been given incorrect information.

Councilmember DeLaney stated that she was more sympathetic to the businesses that had already invested in downtown and had concerns about the lice removal salon being located on Main Street. She stated she did not think that it was appropriate for the area and expressed hope that finding the error would give the Council more time to think about this and decide where the business could best be located. She added that if the proposed business owners followed good business practices, they would do well elsewhere in the City and be welcomed there.

Councilmember Menesini agreed that the ordinance would need to be revised, and that the process to do so would not be too cumbersome. He also stated that the six considerations in adding new uses, as specified in the current ordinance, were reasonable and not too complicated, and should continue to be a part of the process. He expressed concern that the process for zoning new businesses not be based on an arbitrary and subjective decision, and suggested that new types of businesses always be subject to conditions imposed by the Council and Planning Commission. He also noted that the signage agreement between the City and the business had not yet been signed, which suggested that the business owners were not willing to cooperate. He thought the City should be able to establish whatever findings deemed necessary. He agreed that the appeal should be upheld.

Mayor Schroder opened public comment on the item.

Mike Alford stated that he agreed with the recommendation to take some time to amend the ordinance and reconsider the decision.

Ann Mobley presented the Council with a petition, signed by 45 people, urging the Council to uphold the appeal and not allow the use in the commercial district either as a permitted or conditional use, and recommended that the business be moved elsewhere. She suggested that the business be zoned service commercial, and she stated that requiring a business to lie to the public about what they are doing would be dishonest to those frequenting downtown. She reviewed the necessary findings, indicating that none could be made. She suggested that the proposed business owners should not have made any improvements to the property before the City granted their permit.

Ernie Guerrero stated that if the purpose of a business in downtown would have to be kept secret, then it does not belong in downtown. He stated that the process for approving unlisted uses should be easier so that the City could take the proper amount of time and consideration for each new request.

Harlan Strickland noted that the zoning in the downtown in Redwood City is much more restrictive than what Martinez has, and he suggested that was the best way to make downtown and Main Street a success.

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

Mayor Schroder stated that this case was a good example of the difficulty in following ethical, emotional and procedural considerations in some situations. He noted that the finding of the procedural error had made it easier for him to make his decision. He stated that he would vote to uphold the appeal, but he agreed that the zoning ordinance needed to be cleaned up.

Vice Mayor Ross stated that this change should have been included in the update of the Downtown Specific Plan, but that the Council would move forward now by correcting the mistakes and uphold the appeal.

Councilmember Menesini stated that updating the Zoning Ordinance would be worth it, no matter how much time it took, and it should be started soon.

Mayor Schroder asked City Attorney Walter how the issue would be dealt with while the ordinance was being updated. Mr. Walter stated that no permit could be issued for the business at that location until this process is finished. He suggested that if the Council favored requiring a conditional use permit, the business owners could apply for one and that application could be processed at the same time as the ordinance was being updated.

Councilmember DeLaney stated that the Planning Commission could have addressed some of these issues when the proposal originally came before it, but the Commission had been more interested in accommodating the new business than in considering whether the use was appropriate. She expressed regret that it had taken an outside attorney to inform the Council on its own procedures, and suggested that there should be more thoughtful consideration of what the City was trying to achieve in the downtown, and that the uses allowed should be more consistent with the Council's vision.

On motion by Michael Menesini, Councilmember, seconded by Lara DeLaney, Councilmember, uphold the appeal on the Planning Commission's determination that Lice Removal Salons are permitted uses within the Commercial Zoning Districts; and return with a resolution stating the facts; and directed staff to draft an ordinance conditionally permitting Lice Removal Salons within certain commercial districts. Motion approved 4 - 0; Absent: Janet Kennedy, Councilmember; Rest: Ayes.

CITY MANAGER

8. Consider a resolution approving an Agreement relating to the Sharing of Sales Tax revenues with Supplies and Solutions (S&S) for a specified term, enabling S&S to recover a portion of their relocation costs, and expansion costs for leasing or constructing a new warehouse in the City of Martinez, and authorizing the City Manager to execute the Agreement in a form approved by the City Attorney. [P.Vince/19.03.28]

City Manager Philip Vince provided the staff report. He explained staff's negotiation with Supplies & Solutions (S&S), including the company's history, projections for future revenue, and plans for expansion. He also discussed staff's research and analysis on a possible agreement, the possibility of S&S leaving in the near future, and the possible incentives for keeping them in the City. He added that City staff was also pursuing a legislative angle on this issue.

Mayor Schroder pointed out some of the advantages to the City in the proposed agreement, noting that S&S had originally proposed sharing of all tax revenue but the City staff had negotiated for the sharing to only apply to increased revenue resulting from the company's growth.

Councilmember DeLaney asked why the agreement was for 20 years instead of a shorter period, and she noted that the percentage splits during the outyear periods would be disadvantageous to the City. She expressed concern that S&S had the ability to threaten the City with leaving and it was not supportive of the community. She also noted that Golden Gate had promised to build a headquarters in Martinez in the City's agreement with them, but that they had not built it yet. She asked how the City would guarantee that S&S would hold up their end of the bargain. She stated that her preference would be to correct the problem legislatively through the League of Cities. Mr. Vince stated that it would be difficult to force S&S to follow through on their expansion, but he acknowledged that some of the other terms might be improved through negotiation. Councilmember DeLaney suggested that the City wait to execute the agreement until S&S showed some evidence of their intention to expand.

Councilmember Menesini commented that they had been through this process with Price Club, but the Council had not agreed to their terms, and Mayor Schroder indicated that the same had happened with Costco. Councilmember Menesini stated that the agreement with Golden Gate was the first time the City had come to an arrangement like this. He agreed that it was not a good position for the City and there are concerns about precedent. He discussed some of the demands Costco had made in their negotiations with the City. He added that despite his reservations, he thought staff had negotiated the best agreement that was possible in these economic times. Mayor Schroder noted that the City had lost 20% of its sales tax revenue when Costco left.

Vice Mayor Ross agreed with his colleagues' reservations regarding these agreements, but he felt they were unfortunately necessary at this time. He stated that this was probably the best agreement possible under the circumstances.

Councilmember DeLaney reiterated her questions about the percentage split and the time period. City Manager Vince stated that a 20-year agreement would enable the City to predict and count on that revenue for the next 20 years. In regards to the percentage split, he said that was just where the negotiations had ended up after four months of back-and-forth. Councilmember DeLaney suggested that if the deal turned out not to be good for the City, it would not be advantageous to be locked into it for 20 years. She suggested making the agreement for ten years so that they could renegotiate with the benefit of experience. City Manager Vince stated that the percentage split over the course of the whole agreement would be about 55-45 in favor of the City, and noted that even if S&S went out of business early, the City would still be guaranteed a certain amount of revenue. He stated that trying to negotiate for more would risk the City's revenue and payroll budget.

Mayor Schroder opened the item for public comment.

Mike Alford expressed concern with the City getting locked into a bad deal. He stated that Martinez was attractive enough to companies like this that staff should try to negotiate for more. City Manager Vince noted that 55-45 was a good split compared to other cities, who generally entered into agreements based on 30-70 or 80-20 in favor of the company.

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

Councilmember DeLaney stated that she would not support the agreement because it was too generous to the company and did not protect the City enough.

On motion by Michael Menesini, Councilmember, seconded by Mark Ross, Vice Mayor, to approve Resolution No. 45-12 an Agreement relating to the Sharing of Sales Tax revenues with Supplies and Solutions, (S&S) for a specified term, enabling S&S to recover a portion of their relocation costs, and expansion costs for leasing or constructing a new warehouse in the City of Martinez, and authorizing the City Manager to execute the Agreement in a form approved by the City Attorney. Motion passed 3 - 1. Yes: Michael Menesini, Councilmember; Mark Ross, Vice Mayor; Rob Schroder, Mayor. No: Lara DeLaney, Councilmember. Absent: Janet Kennedy, Councilmember.

9. Consider a resolution approving Property Tax Exchange Apportionment Agreement with Contra Costa County for the Alhambra Valley Annexation to the City of Martinez.
[M.Chandler/ 1.227&6.01.10.04]

Dina Tasini, Contract Planner, provided the staff report. She explained that until the tax agreement is signed by the City, LAFCO would not approve the annexation.

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

Vice Mayor Ross stated that he would not approve the agreement because he supported the entire valley being annexed instead of just certain areas. He was concerned that breaking up the area would result in jurisdictional confusion between the county and the City, especially in the provision of emergency services.

On motion by Michael Menesini, Councilmember, seconded by Lara DeLaney, Councilmember, to approve Resolution No. 046-12 Property Tax Exchange Apportionment Agreement with Contra Costa County for the Alhambra Valley Annexation to the City of Martinez. Motion passed 3 - 1. Yes: Lara DeLaney, Councilmember; Michael Menesini, Councilmember; Rob Schroder, Mayor. No: Mark Ross, Vice Mayor. Absent: Janet Kennedy, Councilmember

10. City Manager Comment(s)/Update(s)/Reports.

City Manager Vince updated the Council on the progress for Universal Sports Academy which will have a grand opening sometime in June; and Norcal Courts is also making a lot of progress.

CHIEF OF POLICE

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

Chief of Police Peterson announced that on May 6, the department will be participating in the candlelight vigil at the Sacramento Law Enforcement Memorial for officers who were killed in the line of duty last year in California. He also announced that the week of May 14, will be National Police Week, which honors those 173 officers who were killed in the line of duty throughout the nation. He added that California had lost only 8 officers, and northern California

only one, in Vallejo.

Chief Peterson also informed the Council that Detective Fred Ferrer will be riding in the Police Unity Tour in Washington D.C. and his wife will be in the support van. Detective Ferrer will be riding with Joanne Lassider, widow of the late Officer Larry Lassider of Pittsburg Police Department, killed in the line of duty on April 25, 2005. On May 12, the California Police Officers Association, Region II is hosting a memorial run and family barbecue at Shadow Cliffs Park in Pleasanton. For further information, www.cpoa.org.

CITY COUNCIL

12. Determine whether or not there is a Council approved protocol for third-party negotiations with stakeholders regarding Alhambra Highlands Development project.
[M.Ross/09.05.01.30&41.01.01]

Vice Mayor Mark Ross and Councilmember DeLaney presented the staff report. Vice Mayor Ross explained that they were looking into the possibility of a conservation organization acting as a negotiator with Alhambra Highlands developers over the next several months, and wanted to know if the Council would be in support of that. Councilmember DeLaney added that the City did not have much experience and expertise with this kind of project. Vice Mayor Ross noted that the City was not hiring or relying upon this organization, but wanted to recognize the negotiations they were already doing.

Mayor Schroder noted that the Alhambra Hills Ad-Hoc Committee's purpose was to facilitate communication between the community and the developers, not to be a negotiator.

City Attorney Walter expressed concern that the Council was potentially undermining the implementation of the approval it had granted already. The developer had the permit and the right to start building; it would be problematic if the Council seemed to support an organization that was trying to slow down that process.

Councilmember Menesini noted that the City and the developer had already agreed to a hiatus and that no one was trying to take away the developer's property rights. He expressed appreciation to Vice Mayor Ross and Councilmember DeLaney for making the Council aware of the third-party negotiator. He stated that there was nothing in the record that precluded the other organization from trying to reach an agreement with the developer which would be consistent with the developer's goals and the City's goals.

City Manager Vince noted that the Committee and the third-party negotiator would have to keep track of the grading permit start date so that it could be extended if any progress was made in the negotiations.

13. Council Subcommittee Reports.

Mayor Schroder passed out renderings to the Council since he and Councilmember Menesini will be meeting with Mr. LoForte and Mr. Gerosolimo regarding a potential restaurant at the Marina. He noted that the proposal had included other documents as well.

14. City Council Comments.

Councilmember Lara DeLaney announced that a public meeting will be scheduled to discuss plans to develop an alternative access to the Martinez Waterfront on Wednesday, May 23, at 6:00 p.m. in the Council Chambers. For further information contact City Engineer Tim Tucker at ttucker@cityofmartinez.org.

Vice Mayor Mark Ross requested that some type of acknowledgement be done in recognition of the George Miller Bridge's 50th anniversary since its opening, given its importance to transportation and economic development in the region. Staff was directed to contact the City of Benicia and Caltrans to see if something could be done together.

Councilmember Michael Menesini said that he would like to see the pockets for the outdoor dining come before the Council on May 16th and the traffic circulation for the downtown agenda no later than June 6th. Councilmember DeLaney noted that there would be a subcommittee meeting on the circulation and outdoor dining issue in the next few weeks. Councilmember Menesini said another subcommittee meeting is fine, but he was tired of continuing studies and delays. Mayor Schroder indicated June 6 would work for the circulation issue.

Mayor Rob Schroder stated that he read to the Sunshine Preschool Center, which was a great experience and he had a lot of fun. He indicated that the Beer Fest was very successful, and he thanked all the volunteers who helped with the Downtown Cleanup and City crews. Mayor Schroder announced the Wine Stroll this Saturday on Main Street.

Councilmember DeLaney expressed appreciation to two young men, one by the name of Robert Driscoll, who went down to the Waterfront and collected bags of trash in order to fill their community service obligations.

ADJOURNMENT

Adjourned at 9:30 p.m. to a Regular City Council meeting on May 16, 2012, at 7:00 p.m. in the Council Chambers at 525 Henrietta Street, Martinez, California.

Approved by the City Council,

Rob Schroder, Mayor

Mercy G. Cabral, Deputy City Clerk - 6/6/12