

**CALL TO ORDER**

Mayor Schroder called the meeting to order at 6:15 p.m. with all members present.

There being no public comments made, the Council adjourned to closed session.

**CLOSED SESSION (Adjourn to City Manager's Office)**

- A. CONFERENCE WITH LEGAL COUNSEL--ANTICIPATED LITIGATION  
Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9:  
One potential case.
- B. CONFERENCE WITH LABOR NEGOTIATORS pursuant to Section 54957.6.  
Agency Designated Representatives: Philip Vince, City Manager; Alan Shear, Assistant City Manager.  
Employee organization: Martinez Police Officers' Association.  
Agency Designated Representatives: Rob Schroder, Mayor.  
Employee organization: Unrepresented employee, Gary Peterson, Chief of Police.

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

The meeting reconvened at 7:06 p.m. Mayor Schroder reported that a closed session was held with respect to Conference with Legal Counsel, and direction was given to legal counsel; with respect to Conference with Labor Negotiators, direction was given to the City's labor negotiators.

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

Mayor Schroder announced that Item C under Presentations, Parking Meter Test Update, and Item #7, Marina Loan issues, have been continued to July 25th.

**PRESENTATION(S)**

- A. Presentation by Contra Costa County Fire Chief Daryl Louder.

Chief Louder gave a presentation on the important work the Fire District does and the fiscal crisis it is facing with declining property tax revenue and increasing costs. He reviewed some of the cost controls the District has already implemented to adapt to the changing economic climate, including salary cuts and decreased staffing. The District feels it needs to put a parcel tax measure on the ballot for the purpose of increasing revenue. Chief Louder stated that if the District does not receive supplemental funding through approval of the ballot measure, there will be severe consequences and drastic changes in services, including the closing of 7 out of 28

stations and decrease in personnel and services, which will affect response times immensely. He explained why a short response time is critical to rescuing victims and keeping fires from spreading.

Mayor Schroder stated that property insurance rates would go up if the Fire District's staffing and services decreased significantly. He thanked the District staff for their hard work for the community.

Councilmember Kennedy thanked Chief Louder for helping to keep the public informed. She asked if the District had heard anything about the effect of the elimination of the redevelopment agencies. Chief Louder stated that he anticipated some incremental increases and more funding in the long term, but the District was not counting on it.

Councilmember DeLaney asked if the stations that were expected to close had been determined, and Chief Louder said the District had not made that decision yet, and it would be based on minimizing risk to the communities.

Councilmember Menesini asked what funding the County contributed, and Chief Louder said the District only received funding from property taxes and not from the County budget.

B. Presentation by Food Bank of Contra Costa and Solano.

Larry Sly, Executive Director of the Food Bank of Contra Costa and Solano, announced that the Food Bank is preparing to initiate a Community Produce Program in the northern part of Contra Costa County and would like to establish it in the City of Martinez. Mr. Sly reported that he has been working with Assistant City Manager Alan Shear to identify a site where the food could be distributed. He indicated that the need is high and the Food Bank is serving about 40% more than usual. Mr. Sly provided information regarding the program, patrons, and expected amounts and current locations of distribution. He expressed his appreciation to Council and staff for their support and assistance.

The Council briefly discussed possible locations.

Councilmember Kennedy asked where the fresh produce was coming from, and Mr. Sly stated that the program would purchase unneeded, cosmetically flawed produce from local growers. He also stated that residents could bring extra food from their gardens to the warehouse.

C. Parking Meter Test Program Update. *\*Item continued to July 25th.*

**PUBLIC COMMENT**

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

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

Doug Stewart of Martinez/Pacheco Homeless Outreach provided a 6-month update. The program had made 344 contacts, given 167 inmate rides, responded to 91 911-calls, made 14 mental health referrals, and responded to 98 Amtrak service calls. Mayor Schroder noted that Mr. Stewart was awarded the 2011 Man of the Year Award and was a Grand Marshall in the Fourth of July parade.

Joan Cassidy expressed her frustration with the lack of parking on Talbart Street and in her neighborhood during the summer. She suggested alternatives to this parking dilemma and requested assistance from the Council. Mayor Schroder requested staff to look into the situation or refer it to the Traffic Safety Committee to review. Councilmember Kennedy agreed that signage informing visitors of the other available parking would be helpful.

Mickey Sherman also commented on the parking and safety situation on Talbart and Buckley Streets. She requested the City put in speed bumps or a stop sign.

Char West expressed her dissatisfaction with the City regarding the work being done on the 500 block of Main Street. Ms. West also read a letter from Ann Mobley expressing her frustration with the City for starting the work three months earlier than promised and causing problems with parking and cleanliness for the merchants.

Mike Alford stated that the two-way streets are great and the City is coming together. He encouraged the Council to work together with the Mayor and staff.

Luigi DiTillio commented on traffic safety on Buckley and Talbart Street and requested a stop sign.

## **CONSENT CALENDAR**

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

1. Motion approving City Council Minutes of June 6, 2012. [M.Cabral]
2. Motion approving Check Reconciliation Registers dated 06/28/12.[C.Spinella/2.1.1]
3. Motion approving a contract reappointing Philip Vince as City Manager for a two-year term, and authorizing the Mayor to execute same. [J.Walter/17.00.01]
4. Motion approving an agreement with Michelle Wierschem (aka Mitch Austin) for consultant services on the Marina project. [A.Shear/17.01.10]
5. Resolution No. 096-12 accepting AirCloud Communications' proposal to implement Phase II of the Public Digital Initiative (Wi-Fi) project, and allocating PEG support funding for same. [M.Chandler/19.03.20]

On motion by Mark Ross, Vice Mayor, seconded by Lara DeLaney, Councilmember, approve Items #1-#5 of the consent calendar. Motion unanimously passed 5 - 0.

## **PUBLIC HEARING(S)**

6. Public hearing on an appeal of the Planning Commission decision to approve Use Permit and Design Review application Permit #12PLN-0002, for an installation of a new co-located wireless telecommunications facility by Verizon Wireless on an existing PG&E tower located on a private residential lot at 814 Carter Acres Lane. Consideration and possible adoption of resolution and conditions of approval denying the appeal and approving requested Use Permit and Design Review application Permit #12PLN-0002. [A.Mepani/09.06.01.42]

Associate Planner Anjana Mepani presented the staff report. She explained the applicant's proposal, the Planning Commission's decision, the appeal issues, and staff's response to the appeal.

Councilmember DeLaney asked if staff could provide a copy of the appellant's letter from Mr. Hanson, which Ms. Mepani provided. Councilmember DeLaney asked who had made the determination that there were no feasible alternative sites as required by the Municipal Code. Ms. Mepani stated that staff had reviewed the applicant's analysis and agreed with it.

Paul Albritton, Counsel for Verizon, stated Mr. Hanson had expressed to Verizon that he wished to continue with the original terms of the lease agreement. He discussed the alternatives analysis and the factors it was based on, including the requirements of the City's Code. Councilmember DeLaney asked why the location in Golden Hills Park was not a feasible alternative. Mr. Albritton stated that the height needed was easier to achieve from the top of a hill than from a building on the valley floor.

Vice Mayor Ross asked if the CC&Rs allowed this type of use over an easement, and Mr. Albritton stated that according to the opinion of Verizon's leasing counsel, the CC&Rs would not provide an impediment to the proposal. He added that there were very strong indemnity provisions in the Resolution presented for the Council's approval.

Ari J. Lauer, Counsel for appellants, stated the CC&Rs presented an issue because they stated that the easement was not a common area easement, and because they required the approval of the property owners' association. He summarized the reasons for the appeal, including lack of appropriate notice of the Planning Commission's hearing, possible misinterpretation of the Telecommunications Act, expected declines in property values, and an unsatisfactory alternatives analysis. He urged the Council to grant the appeal and return the application to the Planning Commission for a properly noticed hearing on whether it was exempt under the Telecommunications Act.

Mayor Schroder asked for more explanation of the CEQA exemption and the environmental conservation zoning district issue. Mr. Lauer stated that the CEQA exemption was not discussed at the Planning Commission hearing and that the conclusion in the staff report was incorrect. He added that the environmental conservation district required more impact analysis before the conditional use permit could be granted.

Mr. Albritton stated that the hearing notice properly identified the location, the project, and the CEQA exemption under consideration and was sent to everyone affected. He added that the number of people who attended the hearing showed that the noticing was sufficient. He reviewed the requirements of the Telecommunications Act which stated that potential declines in property values could not be used as a reason to deny an application. He stated that while the applicant had shown that the proposal met all of the zoning requirements, the appellant had not shown any compelling evidence that the application should be denied on a land-use basis. He stated that since the City had allowed the T-Mobile antenna to be built on the site, there was a potential discrimination claim if this application was denied. He explained that the facility was needed to cover the gap in service and that this was the least intrusive location. He also stated that much more substantial structural improvements had been shown to be exempt under CEQA.

Vice Mayor Ross asked if the applicant had approached the Park District to see if it would be possible to use the towers in Briones Regional Park. Mr. Albritton stated that the Park District had very strict policies relating to the co-location of facilities, which discouraged any new construction that might impact views from a trail. Verizon had spent ten years attempting to negotiate with the Park District and had been unsuccessful. He added that most of the locations in parks were much more remote to the areas Verizon was trying to cover, which caused problems with power and fiber-optic cabling and emergency access. Vice Mayor Ross suggested that the facility could have its own generator and it would be more ideal because it was a higher tower and farther away from residences. Mr. Albritton stated that the facility the applicant had chosen was better because it already had electrical and fiber-optic access. Stefano Iachella, Verizon Design Engineer, added that the facility Vice Mayor Ross was talking about would be very difficult to get fiber-optic access to because of the topography.

Mr. Albritton reiterated that the proposed addition would be insubstantial and would have no significant impact on the surrounding residences. Vice Mayor Ross expressed concern that the alternatives analysis was incomplete and that the CC&Rs would present an issue, but he stated he was more concerned about the lack of coverage in the area because it presented a safety issue. Mr. Albritton stated that the proposed facility had already gone through two years of safety reviews, including a National Environmental Quality Act review, and to select a new site would set Verizon back in the process two years. He stated he believed that they had done sufficient alternatives analysis so that they would not have to choose a new site, and City staff, the Planning Commission, and the Design Review Committee all agreed. Ms. Mepani confirmed that it would require a new two-year process to completely reconfigure the site. She added that staff most likely would not support using the PG&E tower mentioned by Vice Mayor Ross because it was in a residential zone and was not a co-location site.

Mr. Lauer presented the appellant's rebuttal. He quoted the Telecommunications Act as saying that some reasonable discrimination among functionally equivalent providers is allowed, and stated that courts have upheld discrimination based on traditional basis of zoning regulations. He stated that it is not discriminatory to deny an application for a facility that is substantially more intrusive than an existing facility, and an increase in the number of antennas can justify a difference in treatment. He asserted that it was not up to the appellant to prove that the proposed tower would hurt the neighborhood, but it was up to the applicant to prove that Verizon had a right to build a tower in a residential neighborhood at all, based on zoning ordinances stating it is not preferred. He stated that the applicant should use one of the alternative sites suggested by the Council, even though it might be more costly to Verizon.

Mayor Schroder opened the Item for public comment.

Christine Charmer, resident, talked about the pristine beauty of the neighborhood before the first cell phone tower had been put in, and stated that the residents had only accepted it originally because it was promised that there would only be one antenna. She added that Mr. Hanson had promised the neighbors he would not sign a contract with Verizon without the approval of everyone on the street. She stated that the new antennas would damage the property values, and suggested that Verizon use an alternative site such as at the Alhambra Creek entrance.

Mayor Schroder read comments from Speaker Cards from Simone St. Claire, who stated that it was unfair that Verizon was able to force individuals to accommodate their needs without consideration for the families in the neighborhood; Mark Charmer, who stated that if property values declined, the value of his retirement investments would decrease; and Mario Charmer, who stated that it was not right for Verizon to decrease the neighborhood's property values when other sites were available.

Mike Alford agreed with Ms. Charmer, and expressed concerns about health and safety with the radiation from the towers so close to residents. He suggested that a suitable site could be found on the hill across from the neighborhood.

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

Mayor Schroder asked if the radiation level would be a concern. Mr. Albitton stated that Hammett & Edison Consulting Engineers had performed a study. He stated that the emissions at the level of the ground and the residences would be minute--500 times below the federal standard. He added that studies performed before 2003 revealed that property values for houses near cell facilities were slightly higher than for those that were not close to a facility. He reiterated that the addition in height was slight compared to the height that was already there.

Dane Erickson, Hammett & Eddison, Inc., reviewed the outcome of the safety study. He stated that the combined power density for both towers would be 0.19% of the federal limit at the nearest residence, and added that the report was in the Council's packet.

Vice Mayor Ross asked if some type of shielding could be used to protect the residents. Mr. Erickson stated that no mitigations would be necessary, and Vice Mayor Ross asked if they could be used anyway. Mr. Erickson stated that RF shielding could be used. Mr. Albitton stated that Verizon would pay for any post-installation testing that was requested by the residents to confirm that they correspond to the calculations. He added that radiation from cell phones themselves was stronger if they had to reach further to find a tower, and so a closer tower would actually decrease the residents' amount of radiation exposure. Vice Mayor Ross asked if Verizon would consider using shielding to help address the concerns of the residents. Mr. Albitton stated that that was usually not done, and that it would exacerbate the problem for residents trying to use cell phones in their homes. He added that the federal standards were reviewed often and were in line with European standards, and 25 years of cell phone usage had not shown any adverse effects from RF radiation.

Mayor Schroder asked the City Attorney to address the noticing issues. City Attorney Jeff Walter stated that because appeals to the City Council are *de novo*, the procedural problems with the Planning Commission hearing were not relevant to the Council's decision. The goal of the Council's Public Hearing is to correct those problems.

Councilmember DeLaney asked if the City Code placed a higher value on co-location or on avoiding residential locations. Ms. Mepani stated that the preference is for co-location. Councilmember DeLaney suggested that the requirement that no feasible alternatives exist seems to imply that the preference is for avoiding residential areas.

Councilmember Kennedy stated that she lived near Golden Hills Park, although she was not within the affected area. She stated that she had also noticed the lack of good Verizon coverage in the neighborhood. She asked if the PG&E poles on Reliez Valley Road were considered as possible alternatives. She also asked if there was any way to build the addition lower than the T-Mobile tower. She stated that she thought there were a lot of possible alternative sites. She asked if Mr. Hanson had the legal right to sign the agreement without the consent of his neighbors. Mr. Walter stated that the easements and CC&Rs were irrelevant to the Council's decision because they had to do with private agreements, and that private parties who believed the agreements are being breached can initiate their own actions to enforce them. Mr. Iachella stated that the only location high enough was already used by the T-Mobile tower, and the PG&E towers were very short and would provide limited coverage. Mr. Albritton stated that some communities used distributed antennas on utility poles, but up to 24 tower additions would be required to achieve the same coverage that one would achieve at a greater height. He noted that federal law also requires cities to act on applications for stand-alone towers within 150 days, although Verizon had extended that deadline with the City through July 31st, and having to find another location might violate that portion of the Act.

Councilmember Kennedy asked if Verizon had actually received a written rejection from East Bay Regional Parks. Mr. Albritton stated that Verizon had been in lease negotiations with East Bay Regional Parks for about ten years, which were unsuccessful because of their requirement that there be no off-park alternative location for the facility. The East Bay sites were not pursued, in favor of this co-location site with a willing landlord. Councilmember Kennedy expressed appreciation for Verizon's attempt to provide better service to Alhambra Valley.

Vice Mayor Ross clarified that the Council's options were to deny the appeal and allow Verizon to move forward, although the appellants would have other legal resources, or to uphold the appeal and force them to start over with the process. Mr. Walter stated that if the appeal was upheld, the Council would need factual findings to support that. He stated that if the appeal was upheld, it was more likely that Verizon would choose to sue the City, because he did not see any legal reason to deny the application under federal law. He reviewed the evidentiary burden of Verizon and of the City. He stated that no evidence showing feasible alternatives had been presented; although some sites had been proposed, they had not been investigated by a City representative. He recommended that if the Council wished to investigate alternative sites, that the Item be continued to allow staff to do that and bring back a report at a later date. He added that in his opinion, the July 31st deadline did not allow enough time to adequately investigate the other sites.

Councilmember Menesini stated his opinion that there was enough evidence to grant the appeal, but suggested continuing the Item to the July 25th meeting. He did not feel that Verizon had provided a sufficient response to the Council's questions about possible alternative sites, or made an honest attempt to locate the facility further away from homes. He also expressed concern about the health issue and about the letter from Mr. Hanson possibly indicating that he did not want to go through with the agreement.

Mayor Schroder suggested that staff take a look at alternative sites, especially #4 on the staff report map, east of Reliez Valley Road.

Councilmember Kennedy suggested that a 12-foot addition to the tower would be a significant increase.

Vice Mayor Ross stated that he did not think Verizon had presented all the information fairly, but admitted there was probably not a feasible alternative site that would address the lack of coverage. He suggested that Verizon provide some mitigation for the residents.

Councilmember DeLaney asked if a site would be a feasible alternative if it was more costly, and stated it was more important to keep the tower out of residential areas than to keep costs down. She also suggested a monopole could be disguised to make it less intrusive.

Mayor Schroder suggested that his fellow Councilmembers visit the site.

The Council expressed consensus to continue the Item to the July 25 meeting, directed staff to provide more information on the alternative sites and shielding, and directed Verizon to submit something in writing from East Bay Regional Parks District.

*\*Council recessed and reconvened with all members present.*

## **CITY MANAGER**

7. Marina Loan approve the following: [M.Austin/14.01.00]
  - A. Resolution for the General Fund to loan the Marina Fund \$80,000 from assigned fund balance to pay the loan payment to the State Department of Boating and Waterways; and
  - B. Resolution approving adjustments to the adopted Marina Fund Budget for the Fiscal Year 2012-13.

Item continued to the meeting of July 25th.

8. Economic Development Corporation (EDC): [P.Vince/09.19.00]
  - A. Direct staff to return with a formal proposal detailing the steps needed to establish an EDC; and
  - B. To explore necessary funding.

City Manager Philip Vince presented the staff report. He updated the Council on the status of the Unreinforced Masonry Ordinance, noting that five buildings had been repaired but there were still 22 left, and at this rate they would not be done before the 2015 deadline. Staff was requesting that the Council give direction to explore different possibilities to find funding for repairing these buildings within a shorter time frame. One option would be a non-profit to help coordination and communication between the City and business owners.

Mayor Schroder stated his opinion that the Ordinance is a valuable one and needs to continue to be enforced, although the timeline could be flexible. He agreed that it was important to explore funding alternatives. He requested further explanation of the URM compliance numbers. Public Works Engineer Dave Scola stated that in 1990, there were 60 buildings that needed the retrofit. Until 2009, there was less than 40% compliance. The 2009 ordinance stated that the engineering analysis had to be complete by August 2011, and the property owners had to have construction drawings by 2012. Currently, four buildings were in progress, and 22 had not finished the engineering study. Vice Mayor Ross asked how many of them were owned by individuals. Mr.

Scola stated that two of them were owned by the same individual, and the rest were owned by different people. Many of them were next to each other.

Mayor Schroder opened the Item for public comment.

Albert Turnbaugh, downtown property owner, agreed that public safety is the number one concern, but stated that the buildings were still a part of the City's history. If the buildings were destroyed, it would be a loss to the City. He stated it was important for everyone to take responsibility for retrofitting the buildings and to find alternatives to help the property owners do this. He urged the Council to support staff's recommendation.

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

Vice Mayor Ross asked how large the committee would be, and Mr. Vince suggested nine people. Vice Mayor Ross suggested that if many of the buildings were close together, it might be possible to reduce costs by doing several at once. Councilmember Kennedy stated that the City could issue debt to do that, although there would have to be something to meet the debt service. She expressed her opinion that the City should explore every option and be aggressive and creative in solving the problem.

Councilmember DeLaney stated that from her research on EDCs in California, there was no evidence yet that they were effective. She agreed that different possibilities should be explored, but expressed concern about how much of the City's resources they would be able to invest, especially with added administration costs.

Vice Mayor Ross asked if this would be eligible for ABAG participation bonds. Mr. Vince stated that staff had discussed it with ABAG and they would not be able to help. He suggested it was important to minimize the public liability and maximize private participation. He also stated that the cost of this would probably be one-time start-up costs, and if the EDC did not flourish on its own, the City would not spend any more on it. He noted that staff's follow-up report would answer all of Councilmember DeLaney's questions.

Councilmember Kennedy stated that if the Council extended the deadline, the situation would likely not change and non-compliance would continue. She stated that an EDC was a good possibility to explore.

Councilmember Menesini stated that the downtown area has a lot of problems, and having a broader vision as to what the City can do economically to help some of these properties is important. He stated that it was important to have buy-in from the community and build a partnership with the County and with businesses to share the costs.

On motion by Michael Menesini, Councilmember, seconded by Mark Ross, Vice Mayor, direct staff to return with a formal proposal detailing the steps needed to establish an Economic Development Corporation and explore necessary funding. Motion unanimously passed 5 - 0.

9. "Next Steps for Downtown Matters" consider the recommendations to help leverage the private funding needed to support the revitalization of Downtown. [P.Vince/9.2.15]

Susan Moeller, consultant to Downtown Matters, presented suggestions for moving ahead on downtown revitalization. She congratulated the Council on the new outdoor dining and the other actions taken in downtown. She reviewed the strategies and recommendations that she had presented previously and the progress that had been made in those areas. She presented recommendations for increasing funding and involvement.

Mayor Schroder stated that he had learned a great deal from looking at other cities' downtowns and had been impressed by the workshops' potential to help people see things in a different way. He expressed his appreciation for the update and the suggestions and stated that it was important for the Council to continue to follow through with the strategies.

Councilmember Kennedy stated that she liked the idea of a downtown vision statement so that people could verbalize what they wanted the downtown to be, since it was different things to different people and at different times.

Vice Mayor Ross agreed that it was important to create a unified presentation so that all of downtown would be connected. He commented that there needs to be more seating for the public downtown.

Councilmember DeLaney expressed appreciation for the concrete ideas and the timeframe. She stated that immediate short-term steps were more important than a long-term master plan, because of the limited resources. She suggested that signage in downtown should be improved to provide more direction and linkage. She requested more concrete ideas so that the City could move into the implementation stage.

Mr. Vince noted that the City had moved forward with design in the plaza, and he thought the changes with that and the signage were doable with the current budget. He stated that getting community buy-in took a lot of resources and time, and asked how much community input the Council would want to wait for. Mayor Schroder expressed appreciation for the plaza improvements that had been done so far, but agreed that it needed more work. He agreed that there would need to be some level of community contribution. He suggested that staff take the ideas that had been created so far and hold community workshops, even though it would take time to come to consensus. Councilmember Kennedy stated that the public would need to understand that revitalization takes time, and that the City would be able to get a lot of good ideas through this process.

Mayor Schroder agreed that the signage needed work. Councilmember Kennedy suggested looking at downtown Healdsburg.

Councilmember Menesini stated he was impressed by the outcome of the workshops, and agreed with the signage and linkage issues. He agreed that the downtown plaza did not fit in with the character of Martinez. He stated that having a dialogue with the community about their vision of downtown and the specific plan would be a good idea, and that the City needed to find a way to develop the unused properties in the area. He added that expansion would be necessary to help with the buildings that needed retrofitting.

Councilmember DeLaney proposed that the Economic Development Subcommittee co-host a workshop with the Main Street Design Subcommittee and review the proposed plaza design with the community.

Ms. Moeller suggested that there also be an element of public education on the purpose the plaza could serve and the constraints that were present.

Vice Mayor Ross stated that the downtown had potential, and suggested that the new design of Marina Vista had a good style that should be continued throughout downtown.

Mayor Schroder suggested moving forward with a workshop on Main Street Plaza and including Main Street and the Chamber.

The Council agreed to the next steps as recommended to help leverage the private funding needed to support the revitalization of Downtown beginning with the Main Street Plaza and directional signage; this will include a subcommittee to meet with outside organizations and the public on the design of the Main Street Plaza.

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

### **CHIEF OF POLICE**

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

Captain Ghisletta announced National Night Out on Tuesday, August 7, where the neighborhood policing areas and community partnerships will be introduced. He stated that further updates would follow.

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

#### **CITY COUNCIL**

12. Council Subcommittee Reports.

13. Direct staff to send letters of support H.R.3125: Earthquake Insurance Affordability Act to Congressman John Campbell and U.S. Senator Diane Feinstein. [41.01.01]

Mike Alford stated that the City had made a good start in downtown and it would continue to become more popular. Now it was important to come up with creative ideas to make it the best possible and make sure the buildings were taken care of.

On motion by Michael Menesini, Councilmember, seconded by Lara DeLaney, Councilmember, direct staff to send letters of support H.R.3125: Earthquake Insurance Affordability Act to Congressman John Campbell and U.S. Senator Diane Feinstein. Motion unanimously passed 5 - 0.

14. City Council Comments.

Vice Mayor Mark Ross commented on the upcoming 50th Anniversary celebration of the Benicia Martinez Bridge, and he suggested doing something in Martinez. Assistant City Manager Alan Shear indicated that he will be meeting with Caltrans. Vice Mayor Ross urged staff to do something although funding is limited, and that an invitation be provided to Congressman George Miller.

Councilmember Lara DeLaney announced that the City will be presenting on Parking and Access Enhancements at the Martinez Amtrak Station project kick-off meeting on Thursday, July 19, at 6:00 p.m. in the Council Chambers. She also announced the Sgt. Brian Carter Memorial Blood Drive on July 20, at the Shell Club House. On July 22, there will be a "Meet Senator Mike Thompson" Pasta Dinner at the Martinez Senior Center for \$20 per person, and on that same day, the Senior Center will be having a free electronics recycling event. Mayor Rob Schroder indicated that he will be meeting with Supervisor Glover, the County Administrator and City Manager Vince regarding current maintenance of occupied and unoccupied County buildings. Mayor Schroder reported out from the LAFCO hearing regarding the Alhambra Valley Annexation, where he requested that the item be continued to their meeting in September, and they agreed. Mayor Schroder requested that the meeting be adjourned in memory of retired City employee Beth Gilmore and Kathy Searls, long time teacher at Morello Park Elementary.

### **ADJOURNMENT**

Adjourned at 11:05 p.m. *in memory of Beth Gilmore and Kathy Searls* to a Regular Meeting on July 25, 2012 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 – 9/5/12

## **CALL TO ORDER**

Mayor Schroder called the meeting at 6:30 p.m. in the Council Chambers with all members present except Vice Mayor Ross who arrived shortly after roll call.

## **CLOSED SESSION**

- A. CONFERENCE WITH LEGAL COUNSEL--ANTICIPATED LITIGATION  
Significant exposure to litigation pursuant to Cal. Government Code section 54956.9(b):  
Two potential cases.

Initiation of litigation pursuant to Cal. Government Code section 94956.9(c): One potential case.

There being no public comments, the Council adjourned to closed session.

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

Mayor Schroder called the meeting to order at 7:10 p.m. with all members present. He reported that a closed session was held regarding Conference with Legal Counsel--Anticipated Litigation with significant exposure, two cases; and Initiation of Litigation, one case; no action was taken.

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

EXCUSED: None.

ABSENT: None.

## **PRESENTATION(S)**

- A. Swearing in of Police Officers Jason Quan and Eric Troutt.

Chief of Police Gary Peterson introduced Officers Eric Troutt and Jason Quan, reviewed their backgrounds and introduced their families. The swearing-in was performed by Deputy City Clerk Mercy Cabral. Officer Quan was pinned by his wife Leigh; Officer Troutt was pinned by his wife Heather.

The Officers expressed their appreciation to the City, Chief Peterson, and their families for their support. The Council offered their congratulations.

- B. Proclaiming August 11th as "National 811 Day."

A proclamation regarding pipeline infrastructure and safe and careful digging was presented to Steve Leshner and Cathy Ivers of Shell Oil, Martinez. Mr. Leshner expressed pride in Shell's safety record and urged residents to call 811 before digging around their homes.

C. Presentation of Certificates of Completion for CERT.

Chief Gary Peterson announced that the City is recognizing those who have completed the course requirements for the Community Emergency Response Team (CERT). CERT training prepares individuals so that in a disaster they can take care of themselves, their family, and neighbors. He recognized Gill Patton for his commitment and hard work as Director; under his direction the Department trained over 200 Martinez residents. He also recognized the new Director, Brian Limbloom. Chief Peterson urged the public to volunteer, and to contact him or view the City's website for more information.

Chief Peterson, Brian Limbloom, and Mayor Schroder presented certificates to the CERT volunteers.

Mayor Schroder recognized in the audience Boy Scout Troops #188 and #440 from Martinez and Pleasant Hill, who were working on their merit badges for Citizenship.

D. Presentation by Martinez Chamber of Commerce.

Marie Knutson, President; Marie Peinado, Executive Director; and Reba Bower, Sales and Membership Director, provided a third quarter update. Ms. Knutson reviewed duties performed over the last quarter and stated that their primary goals with the visitors' center are to provide information, convey the richness and diversity of Martinez, and encourage return visits. Ms. Knutson reviewed past and future events and various communication projects, including publications, advertising, and the Chamber's website, Facebook page, and other networks. The Chamber has produced a video for the public channel which will soon be aired and placed on the website. Besides promoting Martinez, the Chamber assists the local community groups and businesses with ribbon cuttings, mixers, educational series, and referrals. She recognized the Chamber's new CEO, thanked the Council for their continuous support, and recognized members of the Board that were in the audience.

Mayor Schroder expressed appreciation for the Chamber for the strides that it has made in recent years and for many successful and quality events. He also thanked the Chamber and Main Street Martinez for working well together. The Council thanked the Board members for their hard work and the time they put into the community.

E. Presentation by Main Street Martinez.

John Curtis, President of Main Street Martinez, recognized Leanne Peterson, Executive Director and Boardmembers that were in the audience. Mr. Curtis provided an update on their activities and indicated that they have moved the office on Main Street. Mr. Curtis stated with the help of over 300 volunteers they have been able to produce and distribute new downtown directories, maintain an outdoor kiosk, juror packets, farmers' market and many other initiatives, and maintain communications, i.e. weekly email blasts, the Main Street Facebook page, the new website, and many others. He stated Main Street has seen a lot of progress in the visibility and popularity of downtown. He reviewed past and future events and expressed his appreciation to the Council, staff, and all the volunteers for all their support.

Mayor Schroder stated he is pleased and impressed with the variety of successful events that Main Street puts on. Councilmember Kennedy announced the upcoming Peddler's Faire on August 4 from 8 am to 4 pm. The Council expressed appreciation for Main Street's work.

Mr. Curtis introduced Robin Parker, producer of "Martinez Special," a documentary about the origins of the Martini and the battle between the cities of Martinez and San Francisco over the right to claim its birthplace. Ms. Parker presented the documentary. Leanne Peterson stated that the documentary would also be aired on the City's public channel.

Vice Mayor Ross requested that an Urgency item be added regarding changes in the Brown Act requirement that have been enacted by the State. He requested that a resolution be adopted to continually comply with the Brown Act; and provided a copy of a resolution adopted by the City of Rancho Cucamonga.

On motion by Michael Menesini, Councilmember, seconded by Lara DeLaney, Councilmember, to approve adding an urgency item to the agenda under City Council Items to adopt a policy to continually comply with the requirements of the Brown Act. Motion unanimously passed 5 - 0.

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

Mayor Schroder announced that for the record, a communication was received from Kristin Henderson regarding the Alhambra Valley Annexation.

Joan Cassidy stated that she was at the last Council meeting regarding the ongoing problems with parking in Rankin Park neighborhood especially on Talbert and Buckley. She also stated that the park has been targeted by graffiti, and there has been no stop sign placed at the end of Buckley or signs indicating additional parking. She suggested a gate be constructed to close the park at night. Mayor Schroder stated the Council was exploring the use of cameras in the parks. Councilmember Menesini expressed concern with the isolation of the park. He stated that he did not like limiting public access, but it might be a good idea to set a curfew in the park and put a chain across the entrance. Chief Peterson urged residents to call the police department for noise violations.

Luigi DiTillio complained about garbage cans being kept in front of homes to reserve parking spaces, which is unattractive.

Mike Alford commended the Council for taking leadership in making improvements downtown and suggested motion lights be installed at the park to keep graffiti and undesirables out of the parks at night.

Gary Freitas spoke on dredging procedures and expressed concern that the Marina dredging be done correctly.

**CONSENT CALENDAR**

MOTION WAIVING READING OF TEXT OF ALL RESOLUTIONS AND ORDINANCES.

1. Motion approving City Council Minutes of June 27, 2012. [M.Cabral]
2. Motion approving Check Reconciliation Registers dated 07/11/12 and 07/19/12. [C.Spinella/2,.1.1]
3. Motion accepting Cash and Investment Report ending June 30, 2012. [C.Spinella/2.1.1]
4. Motion adopting Fair Political Practice Commission Form 806 to be posted on the City's website, listing the paid appointment of a Councilmember(s) to boards, agencies, authorities and to update the Form 806 upon any change in compensation or a new appointment. [S.Chapek/40.06.00]
5. Resolution No. 097-12 authorizing the City Manager to execute a Side Letter clarifying the Assignment Pay Benefit in the Memorandum of Understanding between the City of Martinez and the Police Officers Association. [A.Shear/4.5.6]
6. Resolution No. 098-12 approving the Eagle Marine Lease extension and authorizing the Mayor to execute same. [M.Chandler/5.11.00]
7. Resolution No. 099-12 approving the General Obligation Bond Tax Rate for the 2012/13 property tax roll and directing submittal to Contra Costa County. [C.Spinella/2.09.00]

On motion by Janet Kennedy, Councilmember, seconded by Michael Menesini, Councilmember, to approve Items #1 through #7 of the Consent Calendar. Motion unanimously passed 5 - 0.

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

8. Verizon Wireless Application: Continue the public hearing to the meeting of September 19, 2012, to consider adoption of a resolution and conditions of approval denying an appeal and approving requested Use Permit and Design Review application, Permit #12PLN-0002, for installation of a new co-located wireless telecommunications facility by Verizon Wireless on an existing PG&E tower located on a private residential lot at 814 Carter Acres Lane. [A.Mepani/09.06.01.42]

Public hearing continued to the meeting of September 19, 2012.

#### **CITY MANAGER**

9. Marina Loan -- consider and take action on the following: [A.Shear/14.01.00]
  - A. Approve resolution for the General Fund to loan the Marina Fund \$80,000 from the remaining Texaco settlement in assigned fund balance to pay the August 1, 2012 loan payment to the State Department of Boating and Waterways.
  - B. Do not approve payment to DBAW and concomitant General Fund loan to the Marina Fund.

Assistant City Manager Alan Shear presented the staff report. He explained why the Marina Fund was unable to make the payment, and reviewed the Council's options. The Council had received additional information during the closed session.

Mayor Schroder opened the Item for public comment.

Mike Alford asked if Martinez Marinas LLP was still being paid for their management, and Mayor Schroder confirmed that the City still had a contract with the firm.

Mr. Verrilli asked if the public could have more information about the background of the payment and the discussion that had taken place in closed session.

City Attorney Jeff Walter explained that because there was a potential for litigation in this situation, the discussion the Council had would have to remain private.

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

Councilmember DeLaney stated the General Fund could not afford to provide any more money to the Marina Fund, and the City needed to come to an agreement with DBAW to find a new way to finance the Marina.

Councilmember Menesini agreed and suggested that the Council direct staff to audit the City's contributions to the Marina. He stated he would support loaning the Marina Fund the \$33,000 in the Enterprise Fund, but no more.

Vice Mayor Ross stated that he thought this was an appropriate use of the Texaco settlement money. He expressed his opinion that paying DBAW only a partial amount in an attempt to get its attention was a flawed strategy. He stated that DBAW would not be willing to help finance the Marina more when the City already had a poor record from paying it back. Vice Mayor Ross suggested holding the \$80,000 from the Texaco settlement money in escrow as a guarantee to the state that it would either go to paying the loan or to making further improvements on the Marina with DBAW's cooperation.

Councilmember DeLaney stated that paying \$33,000 from the Enterprise Fund would show DBAW that the City was committed to meeting its obligations, but that the Enterprise Fund and the General Fund could not sustain any payments of this size.

Vice Mayor Ross expressed frustration with the lack of agreement with the State, but stated the City would have to continue spending money on the Marina anyway. He stated he wanted to pursue negotiations with the State with the City's new revised plan for the Marina.

Councilmember Menesini stated this was not about giving up on the Marina, but about defining the City's relationship with and obligations to DBAW.

On motion by Michael Menesini, Councilmember, seconded by Lara DeLaney, Councilmember, to approve the monies in the Enterprise Fund of \$33,000 to pay the August 1, 2012, loan payment to the State Department of Boating and Waterways, and not approve additional payment to DBAW through a concomitant General Fund loan to the Marina Fund.

Motion passed 4 - 1. Yes: Lara DeLaney, Councilmember; Janet Kennedy, Councilmember; Michael Menesini, Councilmember; Rob Schroder, Mayor. No: Mark Ross, Vice Mayor.

Mayor Schroder indicated that the document provided by the City Attorney in closed session regarding a history of the Martinez Marina marked as Exhibit A be made available to the public. Councilmember DeLaney requested that Exhibit B be made public as well. City Attorney Walter concurred.

10. Provide direction to staff regarding the potential granting of a non-exclusive private access easement over a portion of the City's Lafayette Street surplus property. [T.Tucker/5.10.02]

Vice Mayor Ross recused himself indicating he had a conflict of interest due to the proximity of the property to his home and left the dais.

City Engineer Tim Tucker presented the staff report and provided a PowerPoint presentation about the parcel of surplus property and the issues involved with the granting of the easement. The easement would improve accessibility for development of the nearby land. He explained the options before the Council.

Councilmember Kennedy confirmed that there was currently no proposed development on the neighboring properties. She suggested that it would be more appropriate to consider the easement as part of a development proposal so that the Council could more fully investigate the issues involved. Councilmember DeLaney stated this was a preliminary action to give direction to staff to investigate the possibility. Mr. Tucker stated this was the first step in the surplus property process, and staff would come back with more information if directed.

Councilmember Menesini stated this was not necessary because there were other options for access, and Lafayette Street would not be able to support the extra traffic. Councilmember Kennedy stated that it would depend on the kind of development that was done. Councilmember Menesini stated that he did not want to give false hopes by suggesting that access was possible. Councilmember DeLaney asked if staff could address the possibility of providing access through Dineen Street. Mr. Tucker noted that development would still be possible through Escobar Street, although it would not be as convenient. He stated that access through Lang and Miller was a possibility.

Mayor Schroder agreed that he was for appropriate development, but he thought exploring the possibility of an easement was premature at this point.

Mayor Schroder opened the Item for public comment.

Harlan Strickland stated he agreed with Council's comments and that Lang would be a more appropriate connecting street. He asked why the City had not provide public notice on this Item. Mr. Tucker stated that public notice would be given if there was a next step. Councilmember Menesini expressed his opinion that the lack of proper notice was a reason to not move ahead on this, and requested that staff provide notice on items like this in the future.

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

On motion by Michael Menesini, Councilmember, seconded by Lara DeLaney, Councilmember, to drop the item from calendar and take no action nor provide direction to staff. Motion unanimously passed 5 - 0.

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

### **CHIEF OF POLICE**

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

Chief Peterson noted that last Friday a community blood drive was held in honor of Sgt. Brian Carter. Enough blood was given to help 166 patients. He thanked Cathy Ivers and Shell Oil, who provided the venue, and the community who supported the blood drive.

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

#### **CITY COUNCIL**

##### *Urgency Item Added:*

13. A. Resolution adopting a policy to continually comply with all the requirements of the Brown Act during the State of California's three year suspension of State mandates as contained in AB 1464 and SB 1006.

Vice Mayor Mark Ross stated that he did not expect the City would have any issues continuing to abide by the Brown Act, but the City could set an example as a leader by publicly reiterating its compliance.

Mayor Schroder stated that Vice Mayor Ross had brought this up in time for it to be on the agenda, but it had not gone to staff in time. He agreed this was an important action for the Council to take, to reiterate what the City's practices and policies are.

On motion by Michael Menesini, Councilmember, seconded by Lara DeLaney, Councilmember, to approve Resolution No. 100-12 adopting a policy to continually comply with all the requirements of the Brown Act during the State of California's three year suspension of State mandates as contained in AB 1464 and SB 1006. Motion unanimously passed 5 - 0.

13. B. Council Subcommittee Reports.

14. City Council Comments.

Councilmember Janet Kennedy announced that Shelter Inc. is currently offering to help Veterans and families who are homeless or at risk of homelessness with first month's rent, security deposit, and utility assistance. For more information call Shelter Inc. at (925) 957-7579. She also requested that the information be placed on the City's website. Councilmember Kennedy announced the Martinez Relay for Life, the 24-hour fundraiser for the American Cancer Society, to be held on Saturday, July 28, at Las Juntas Elementary School.

Councilmember Lara DeLaney announced that she will be holding an Olympic Fun Day for "Let's Move", an organization established by Michelle Obama to help reduce child obesity by encouraging physical activity, on Saturday, June 28<sup>th</sup>; Councilmember DeLaney will host a tennis clinic at Nancy Boyd Tennis Courts at 11:00 a.m. She also announced a Community Workshop at 6:00 p.m. on Wednesday, August 1, in the Council Chambers to discuss alternative access to the Martinez Waterfront.

Vice Mayor Mark Ross congratulated the Police Department on the successful blood drive.

Councilmember Michael Menesini stated that he was impressed with Councilmember DeLaney's initiative in hosting the tennis workshop.

Mayor Rob Schroder announced that the Wellness City Challenge is hosting the fourth annual Mayors' Healthy Cook Off in Concord at Todos Los Santos Plaza on August 23rd at 5:00 p.m. His chef this year will be Sal Riccabono.

### **ADJOURNMENT**

Adjourned at 9:14 p.m. to a Summer Recess during the month of August 2012, then to a Regular Meeting on September 5, 2012 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 – 9/5/12