

ANTIOCH CITY COUNCIL

Regular Meeting
7:00 P.M.

February 10, 2004
Council Chambers

6:00 P.M. - 6:30 P.M. - SEGWAY electric powered transport device held a demonstration in the City Hall Parking Lot.

6:30 P.M. - CLOSED SESSION

1. CONFERENCE WITH LABOR NEGOTIATOR. Agency Negotiator: Holly Brock-Cohn; Employee organization: Local One. This closed session is authorized by Government Code §54957.6.

2. CONFERENCE WITH LEGAL COUNSEL - LIABILITY CLAIM. Claimant: Carone and Son, Inc. This closed session is authorized by Government Code §54956.95.

Mayor Freitas called the meeting to order at 7:05 P.M., and City Clerk Martin called the roll.

Present: Council Members Kalinowski, Davis, Conley, Simonsen and Mayor Freitas

Mayor Freitas reported the Closed Session item #2, a settlement had been authorized of \$630,000 from the sewer fund by a vote of 5-0.

PLEDGE OF ALLEGIANCE

Mayor Pro Tem Davis led the Council and audience in the Pledge of Allegiance.

ANNOUNCEMENTS OF BOARD AND COMMISSION OPENINGS

City Clerk Martin announced the City of Antioch was accepting application to fill two vacancies on the Park and Recreation Commission and three vacancies on the Police Crime Prevention Commission. She stated applications were being accepted and urged those interested in applying to contact the City Clerks office for an application or download an application from the City's website. She noted the deadline to submit an application would be Friday, March 19, 2004, 5:00 P.M.

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Nancy Roberts, representing the Arts and Cultural Foundation of Antioch, invited residents of the Lone Tree and Hillcrest assessment districts to participate in a task force for the large public art project. She provided a contact number for anyone who wished to be involved. She announced the Lynn House Gallery was looking for local teens who would like to exhibit their work in the Teen Artist Showcase. She noted there was an entry fee of \$5.00 and the artwork was due by March 6, 2004. She provided a contact number and website address for anyone wishing to receive additional information. She reported the Rivertown Arts Center currently had artist space available for rent and provided a contact number for anyone who was interested.

Priscilla Friemering announced the Antioch Mayor's Prayer Breakfast would be held on March 18, 2004 at Humphrey's on the Delta from 7:00 - 9:00 A.M. She provided a website address for anyone wishing to receive additional information.

Mayor Freitas provided a contact number for anyone wishing to purchase tickets.

PUBLIC COMMENTS

Emil Stein, Antioch resident, asked whether or not the City planned to address his request for stop signs at Aster Way, Crestview and Fairview Terrace.

Thomas McNell, Antioch resident and co-author of Measure U, expressed concern should the Council continue to increase density of residential development while moving forward with FUA#1, without a phasing mechanism in place for the infrastructure improvements. He urged the Council to listen to their constituents and remember their campaign promises.

Councilmember Simonsen clarified there had been a dramatic decrease in single-family residential permits and an increase in business license permits in 2003. He noted he felt it was important to keep the public informed of factual information regarding the perception of the direction of Antioch and the City Council.

Barbara Sobalvarro, President of Friends of Animal Services, introduced Vice President Zandra Rafael and Animal Shelter Volunteer Morrie Zeeb. She announced the Friends of Animal Services was hosting a Silver Anniversary Event B Valentine Day Celebration at the Antioch Animal Shelter on February 14, 2004 from 12:00-3:00 P.M. and there would be a Valentine for the animals made by a Brownie Troop for visitors to sign. She reported the Friends of Animal Services had assisted in adopting out over 130 animals during December 2003 and had held a New Year's Open House. She noted they were accepting "Love Gift" donations for the shelter animals and provided an address and phone number for anyone wishing to participate.

Mike Habing, introduced himself as the job foreman at the Antioch Toyota project on Somersville Road and noted his company had done everything staff had requested and have tried their best to address the resident's concerns in a timely manner. He reported he received a phone call regarding dust on their site and explained staff had visited the site and reported there was no dust.

In response to Councilmember Conley, Mr. Habing stated the original finish date for the end of construction was April 1, 2004. He stated it would now be dependent on the weather.

Rosie Ingalls and Dottie and Joe Marks wished Mayor Freitas a Happy "50th" Birthday. Mayor Freitas was presented with balloons, and gifts from the community and City Council. Mayor Freitas clarified it was his "49th" birthday for the public.

6. PRESENTATION ON THE SEGWAY ELECTRIC POWERED TRANSPORT DEVICE AND DISCUSSION ON NEED FOR ANY CITY ORDINANCES TO RESTRICT ITS USAGE ON CITY RIGHTS-OF-WAY

#701-05

Assistant City Manager Pappas Diaz presented the staff report dated February 2, 2004 recommending the City Council hear the presentation and directed staff to review and develop an ordinance or wait until a future time to consider any restrictions.

Matt Deliter gave a brief demonstration of the Segway Electric Powered Transport Device and urged the City Council to base their decision regarding further regulation of the device on experience and facts.

Mayor Freitas declared a recess at 7:35 P.M. and invited the public to share in birthday cake. The meeting reconvened at 7:48 P.M. with all Councilmembers present.

1. COUNCIL CONSENT CALENDAR

- A. APPROVAL OF COUNCIL MINUTES FOR DECEMBER 16, 2003 and JANUARY 13, 2004 #301-02**
- B. APPROVAL OF COUNCIL WARRANTS #401-02**
- C. APPROVAL OF TREASURER'S REPORT - DECEMBER 2003 #401-02**
- D. REJECTION OF CLAIMS #704-07**
 - 1. John Pence, Judy Pence & Kathryn Pence, #03/04-1405**
 - 2. Richard Shier, #03/04-1429**
 - 3. The Hartford/Fidelity National Financial (Banke, Peggy) #03/04-1456**
 - 4. Angela Ruggiero, #03/04-1460**
- E. LEGISLATION AND ADVOCACY #701-04**
- F. ORDINANCE NO. 1014-C-S AMENDING SECTION 4-5.411 OF THE ANTIOCH MUNICIPAL CODE, DEALING WITH ENFORCEMENT ON PRIVATE PARKING LOTS (Introduced 1/27/04) (Somersville Towne Center & Slatten Ranch Shopping Center)#1104-01**
- G. RESOLUTION NO. 2004/11 ACCEPTING WORK AND DIRECTING CITY ENGINEER TO FILE A NOTICE OF COMPLETION AND AUTHORIZING FINAL PAYMENT TO TENNYSON ELECTRIC, INC. FOR THE SOMERSVILLE ROAD UNDERGROUNDING OF OVERHEAD UTILITY LINES PROJECT (P.W. 300-17)#1201-07**
- H. RESOLUTION NO. 2004/12 ACCEPTING IMPROVEMENTS FOR MEADOW CREEK VILLAGES UNIT 3, TRACT NO. 7967 (WEST COAST HOME BUILDERS), PW 569-3 #802-02**
- I. APPROVAL OF CHANGE ORDER IN THE AMOUNT OF \$14,230 FOR THE DEMOLITION OF THE OLD ANTIOCH CLUBHOUSE AT RODGER'S POINT (PW 234-9D).....#1001-02**

On motion by Councilmember Conley, seconded by Councilmember Simonsen, the Council unanimously approved the Council Consent Calendar.

PUBLIC HEARINGS

**2. ORDINANCE AMENDING SECTIONS 9-5.2307 (A) AND 9-5.4007 (E) OF THE ANTIOCH MUNICIPAL CODE, DEALING WITH RESIDENTIAL DEVELOPMENT ALLOCATIONS
FILE: Z-03-03 #204-01**

Deputy Director of Community Development Carniglia presented the staff report dated January 13, 2004 recommending the City Council approve Z-03-03 adopting the amendments to the Antioch Municipal Code.

Mayor Freitas opened and closed the public hearing with no speakers requesting to speak.

On motion by Councilmember Conley, seconded by Councilmember Davis the City Council unanimously approved Z-03-03 and introduced the ordinance by title only; introduced the ordinance amending sections 9-5-2307 (a) and 9-5.4007 (e) of the AMC, dealing with Residential Development Allocations.

3. KAISER PERMANENTE REQUESTS ACTIONS FOR AN APPROXIMATE 72-ACRE MIXED USE MEDICAL CAMPUS SITE LOCATED GENERALLY SOUTH ON THE NORTHEAST CORNER OF DEER VALLEY ROAD AND THE FUTURE EXTENSION OF SAND CREEK ROAD. (APN 054-082-003 AND -004) FILE: PD-03-06, UP-03-26, AR-03-38 #202-03

Associate Planner Albro presented the staff report dated January 29, 2004 recommending the City Council approve PD-03-06, UP-03-26 granting the proposed amendment to the Kaiser Medical Campus Final Development Plan, the Use Permit for Phase II of the Medical Campus, and the Addendum to the previously approved EIR subject to the conditions in the staff reports resolution.

Michael Monaldo, project director for the Antioch Medical Center, stated they were requesting an approval of their amended final development plan and the use permit for Phase 2 of the Medical Facility Campus. He thanked staff and elected officials noting it was through this process the project had been improved. He announced they plan to open the facility in November 2007 and noted it was planned to address the capacity in the community today.

Michael Tully-Sintron, Operations Support Services Leader, Drs. Jud Lively and David Niver, Physicians in Chief, and Carl Christensen, project architect, gave a brief overhead presentation of the history of Kaiser detailing the amended project site plan. Dr. Lively invited the community to a Public Seminar *Maintaining a Healthy Heart* on February 11, 2004 at the Deer Valley Medical Office Building at 6:30 P.M.

PROPONENTS:

Sandra Golightly, Chairperson of the Design Review Board, commended Kaiser, staff and Consultant Terry Flynn for presenting the City with a high quality project and she urged the City Council to approve it.

OPPONENTS:

Rich Wentworth stated he the is owner of a 6-acre parcel directly across the street from Kaiser and was concerned as four years ago he had applied to the City for a minor subdivision, which had still not been approved. He noted traffic and accidents have increased in the area, potentially reducing his property value.

With no further requests to speaker, Mayor Freitas closed the public hearing.

Mayor Freitas requested the Community Development Deputy Director Carniglia meet with Mr. Wentworth and report back to the City Council regarding his concerns.

Councilmember Conley stated he was happy Kaiser had chosen to develop in Antioch, noting it would be a tremendous benefit to East County.

Mayor Freitas commended the representatives of Kaiser and City staff for their professionalism throughout the application process. He stated the project would benefit Antioch and Eastern Contra Costa County, further noting it was the first major project in FUA#1, an example of the City's dedication to job creation for the community. He discussed the importance of providing emergency rooms to enhance the resident's quality of life.

RESOLUTION NO. 2004/13

On motion by Councilmember Conley, seconded by Councilmember Kalinowski, the City Council unanimously approved PD-03-06, UP-03-26 approving the proposed amendment to the Kaiser Medical Campus Final Development Plan, the Use Permit for Phase II of the Medical Campus and the Addendum to the previously approved EIR.

Mayor Freitas declared a recess at 8:24 P.M. The meeting reconvened at 8:31 P.M. with all Councilmembers present.

COUNCIL REGULAR AGENDA

4. COUNCIL DETERMINATION OF WHETHER TO CALL ELECTION OR RESCIND APPROVALS: REFERENDUM FOR BLUEROCK MULTI-FAMILY HOUSING AND BUSINESS PARK PROJECT (REYNOLDS AND BROWN) #702-02

City Attorney Galstan presented the staff report dated January 30, 2004 recommending the City Council adopt the resolution calling for the referendum election on June 8, 2004.

Mayor Freitas read letters from Antioch residents Cynthia Wiggins, Robert Lindberg and Hans Hao Liu in opposition to the high density component of the project.

Antioch residents Douglas Tokes, Grant Bazan, Thomas McNell, Hans Ho, Alison McNell, Dee Vieira, Dan Vieira, Lorena Cooper, spoke in opposition to the high density apartment component of the project and expressed concern for the projects impact on the City's infrastructure as well as the precedent set by the city by offering to subsidize private development. They urged the City Council to rescind their vote or support the resolution calling for a referendum election.

Sandy Henry, Antioch resident voiced her support for the project and urged the City Council to adopt the resolution calling a referendum election.

Terry Ramus urged the City Council to adopt the resolution calling a referendum election.

Mike Hurd, representing Reynolds and Brown, clarified the petition indicated the residents of the community should vote on the project and therefore he was in support of the resolution calling for a referendum election. He stated they would provide the voters of the community with a choice between the project and an alternative project.

Wendee Williamson stated they disagree with the wording provided by City Attorney Galstan pertaining to the measure and noted that Stuart Fleishman had forwarded the correct wording according to the referendum election code.

City Attorney Galstan clarified that item "A" on the agenda encompasses all things that happen when an election is called, including what the ballot measure would be and therefore felt it was not necessary to have a separate listing. He added that the Brown Act provides for a description of 25 words or less and the description for the item exceeded the requirements. He reported the state code provided three election dates throughout the year as General Elections and the next general election date is on June 8, 2004.

City Clerk Martin reported the cost is approximately \$40,000 for a regularly scheduled election.

Councilmember Conley stated historically the City had been successful at utilizing enticements to bring businesses and jobs to Antioch. He voiced his support for the project and noted the jobs and traffic relief it would bring were important to the future of the community. He stated the previous designation for the site would increase the impacts to schools and traffic. He voiced his support of the project going to a ballot for a vote of the residents.

Councilmember Kalinowski clarified the City had been consistent in earmarking money for job and retail development in the City. He noted his support of the project as the EIR had indicated it would create fewer students and generate less traffic than the previous General Plan designation. He stated the residents who signed the petition had indicated they would like the project to go before a vote of the people and therefore he would support the referendum election in November 2004, based on the cost issue to the City.

Councilmember Simonsen clarified the City Council implemented Measure U with the Residential Development Allocation process and had reduced the residential building permits by 80%. He reported the City had historically been successful with participation agreements to bring businesses and retail developments into the community. He voiced his support to put the project

to a vote of the residents as requested by the petitioners. He noted he would support the item be placed on the June 8, 2004 ballot.

Councilmember Davis stated he was opposed to spending \$174,000 for a special election in June, and therefore he was in support of the item being placed on the November ballot.

Mayor Freitas stated the City was managing and balancing growth by reducing residential development by 80% and expressed concern if residential development was restricted, the City would not be able to bring retail and investors to the community. He stated Reynolds and Brown was recognized as a premier commercial developer who would bring 1100 jobs, which was critical to the City. He noted the City Council based their decision to support the project based on the fact it would create 1100 jobs, would get people off of Highway 4 and would provide high quality housing. He stated the City has an obligation to bring the project to the voters and he felt it should be done as expeditiously as possible. He urged the process not be politicized.

In response to Councilmember Kalinowski, City Attorney Galstan clarified the Council had until mid March before they would need to take action on the final wording of the ballot measure. He indicated he did not receive information from Stuart Flashman regarding the wording.

Following discussion the City Council directed the City Attorney to review the information regarding the wording on the ballot measure and if necessary bring back any clarifying language on February 24, 2004 for the City Council's consideration.

City Attorney Galstan reported Election Code §9241 which says "if the legislative body does not entirely repeal the ordinance in which the petition is filed the legislative body shall submit the ordinance to the voters either at the next regular municipal election occurring not less than 88 days after the order of the legislative body or at a special election called for that purpose." City Clerk Martin added the next regular municipal election was in June.

Councilmember Conley amended his previous motion to say "adopt the resolution calling for a referendum election." Councilmember Simonsen agreed to second the amended motion, which was approved as follows:

RESOLUTION NO 2004/14

On motion by Councilmember Conley, seconded by Councilmember Simonsen the City Council unanimously adopted the resolution calling for a referendum election revising the resolution to read: "NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby call an election pursuant to Election Code §9241 at the next regularly scheduled election." And deleting all references to June 8, 2004 in attachment 1.

Mayor Freitas declared a recess at 10:08 P.M. The meeting reconvened at 10:18 P.M. with all Councilmembers present.

5. DESIGN AND CONSTRUCTION OF THE NEW WATER TREATMENT PLANT SOLIDS HANDLING FACILITY AND A STRUCTURAL PORTION FOR THE FUTURE "B" CAPACITY EXPANSION PROJECT #1202-01

Public Works Director Harrington presented the staff report dated February 3, 2004 recommending the City Council direct staff to proceed with the Requests for Proposals seeking firms interested in providing design and construction support services for Antioch's Water Treatment Plant Solids Handling Facility and the structural portion for the future Plant B Capacity Expansion Project.

Dean Rubenson, representing Black & Veatch, gave a brief overhead presentation of the Water Treatment Plan Solids Handling Improvement Project (attachment "A" of the staff report).

Councilmember Simonsen recused himself from the agenda item due to a potential for conflict of interest.

In response to Mayor Freitas, Mr. Rubenson stated the project met all state regulatory agencies and no issues had been raised with health.

Public Works Director Harrington clarified with the proposal the odor issues would be reduced due to the fact less sludge would be stored onsite and the hauling of the sludge should not pose any problems to staff. He reported they had been in communication with the regional water quality control board and they had not raised any issues to date.

In response to Councilmember Conley, Director of Public Works Harrington stated there would not be an impact to the existing facility during the construction.

On motion by Councilmember Kalinowski, seconded by Councilmember Conley the City Council members present unanimously directed staff to proceed with the Requests for Proposals.

Councilmember Simonsen returned to the dais at 10:39 P.M.

6. PRESENTATION ON THE SEGWAY ELECTRIC POWERED TRANSPORT DEVICE AND DISCUSSION ON NEED FOR ANY CITY ORDINANCES TO RESTRICT ITS USAGE ON CITY RIGHTS-OF-WAY(CONTINUED) #701-05

Councilmember Simonsen thanked Mr. Deliter for the presentation and requested staff monitor what other cities and the League of California Cities were doing in response to the Segway devices. He voiced concern regarding the narrow streets and the condition of some sidewalks. He noted there would also be the need for additional cutaways on the corners.

On motion by Councilmember Simonsen, seconded by Councilmember Kalinowski the City Council unanimously received and filed the report directing staff to bring back any recommendations at a time when they deem it is appropriate.

Mayor Freitas stated he felt the Segway device was a great transportation tool for the handicapped or disabled.

7. FISCAL YEAR 2003-04 MID-YEAR BUDGET REVIEW #410-02

The City Council agreed to hold the item over to the February 17 or February 24, 2004 City Council meeting.

8. CITY OF ANTIOCH REPORT TO MANAGEMENT - RESULTS OF THE 2002/2003 AUDIT #402-02

Finance Director Tasker presented the staff report dated January 28, 2004 recommending the City Council review the Report to Management - Results of the 2002-2003 Audit.

Cindy Pon, Auditor, for the City Council reviewed the *Report to Management Result of 2002-2003* and stated the report did not indicate there were any reportable conditions or material weaknesses. She reviewed the Report to Management Result of the 2002-2003 Audit.

In response to Mayor Freitas, Ms. Pon stated she agreed with the responses from staff and within the next audit period they would report back regarding the status of the comments and noted though the comments are addressed they should not substantive in nature. She confirmed that the audit report showed an unqualified opinion (clean audit).

Finance Director Tasker stated most of the recommendations had been completed and the remainder could be accomplished.

On motion by Councilmember Conley, seconded by Councilmember Davis the City Council unanimously received and filed the report.

PUBLIC COMMENTS

Douglas Tokes expressed concern the Cornerstone Christian Church had begun negotiations regarding purchasing the property adjacent to their current location. He stated a contractor had begun digging leach lines on the parcel and permits had not been found for the work. He noted if the church expands it would abut and negatively impact his property.

Director of Community Development Brandt stated the property owner had been notified they needed to connect to the sewer and he would have Building Official Griebing check on the issue the following day.

Mayor Freitas requested the City Council be updated on the progress of the issue.

COUNCIL COMMUNICATIONS

Mayor Freitas wished Assistant City Manager Pappas Diaz a happy birthday and thanked everyone for the birthday celebration this evening. He reported the safety fair was well done. He

announced Ed Prewett who was an extraordinary community supporter, passed away on January 30, 2004.

Councilmember Davis reported the first meeting of the RV parking ordinance subcommittee would be held on February 23, 2004.

Councilmember Kalinowski stated he may be a few minutes late to the February 17, 2004 City Council Study Session.

Councilmember Simonsen wished Susan Davis, his mother and his son, Scott, a happy birthday.

STAFF COMMUNICATIONS - None

With no further business, Mayor Freitas adjourned the meeting at 10:56 P.M. to the next regular Council meeting on February 17, 2004.

Respectfully Submitted

L. JOLENE MARTIN, CMC