

**ANTIOCH CITY COUNCIL  
ANTIOCH DEVELOPMENT AGENCY**

Regular Meeting  
7:00 P.M.

November 28, 2006  
Council Chambers

**5:00 P.M. - CLOSED SESSION**

1. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION.** PG&E (Pacific Gas and Electric) Significant exposure to litigation, one case. This closed session is authorized by Government Code §54956.9(b)(1).
2. **CONFERENCE WITH LABOR NEGOTIATOR** - Employee Organization: APOA (Antioch Police Officers Association). This Closed Session is authorized by Government Code ' 54957.6
3. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION** Administrative Civil Liability Complaint No. R5-2006-0512 issued by the California Regional Water Quality Control Board - Central Valley Region to the City of Antioch and Somersville-Gentry, Inc. and SPPI-Somersville, Inc. et al. v. TRC Companies, Inc. et al, Case No. C04-2648 SI, United States District Court, Northern District of California. This Closed Session is authorized by Government Code §54956.9(a)

Mayor Freitas called the meeting to order at 7:00 P.M., and City Clerk Martin called the roll.

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

**PLEDGE OF ALLEGIANCE**

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

Mayor Freitas reported the City Council had been in Closed Session; there was no reportable action.

**PROCLAMATIONS**

*East County HIV/AIDS Task Force World Aids Day, December 1, 2006*  
*Holiday De-lites Celebration, December 2, 2006*  
*Character Counts Program*

On motion by Councilmember Conley, seconded by Councilmember Davis, the Council unanimously approved the proclamations.

Mayor Freitas announced the *East County HIV/AIDS Task Force Worlds Aids Day* proclamation would be sent to the appropriate individuals.

Councilmember Conley presented the proclamation proclaiming December 2, 2006 as *Holiday De-Lites Celebration 2006* to a committee representative who accepted the proclamation on behalf of the Board and presented the City Council with a gift of

“Holiday Lights,” before introducing the Tiny Elite Dancers who performed a ballet to *Santa Claus Is Coming To Town*.

Antioch Chief of Police Hyde accepted the proclamation introducing the *Character Counts Program*, which was recently adopted by the Antioch Unified School District, and thanked the City Council for the recognition and support.

## **ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS**

Lonnie Karste announced the City of Antioch was moving forward with the Prewett Park Community Facility and urged residents to use the City of Antioch’s Website to provide input regarding the facility.

Barbara Sobalvarro announced the Antioch Animal Shelter would be hosting *Home for the Holidays* beginning December 1, 2006 with *Friends of Animal Services* providing financial adoption incentives, and; the “Winter Holiday Celebration” on December 7, 2006, from 6:00 – 8:00 P.M. at the Antioch Animal Shelter. She thanked the City Council for their continued support.

Bill Valenzuela spoke in opposition of increasing the code enforcement budget noting he felt the money should be spent on the downtown.

## **PUBLIC COMMENTS**

Nancy Fernandez, Antioch resident, reported she had recently toured Deer Valley High school and felt the recent negative publicity was unfounded.

Ken Lee, Antioch resident, questioned whether there had been any follow-up on the issues he had raised at the previous City Council meeting. He suggested the city replace the faded California State Flag outside City Council chambers.

Emil Stein apologized to Councilmember Conley.

Hans Ho, Chairperson of the Antioch Police Crime Prevention Commission, read a letter regarding the positive aspects of living in Antioch. He reported on the successes of the Neighborhood Watch Program and encouraged all residents to become involved. Contact information was given for anyone wishing to receive additional information.

Terry Ramus, Antioch resident, thanked Mayor Freitas for participating at the ePAC meetings and discussed the importance of grade separations for the eBART and BART systems. He requested the City Council agendaize this issue and take a vote to show the support of the City Council.

## **COUNCIL RESPONSE TO PUBLIC COMMENTS**

Councilmember Kalinowski requested staff provide the City Council with an update on the eBART and BART system.

1. **COUNCIL CONSENT CALENDAR**
  - A. **APPROVAL OF COUNCIL MINUTES FOR OCTOBER 24, 2006 #301-02**
  - B. **APPROVAL OF COUNCIL WARRANTS #401-01**
  - C. **APPROVAL OF TREASURER'S REPORT FOR OCTOBER 2006 #401-02**
  - D. **LEGISLATION AND ADVOCACY #701-04**
  - E. **ORDINANCE NO. 1082 C-S AMENDING MULTIPLE SECTIONS OF THE MUNICIPAL CODE RELATED TO SPECIAL ASSESSMENT LIENS FOR ADMINISTRATIVE FINES, CREATING UNIFORM APPEAL AND LIEN PROCEDURES, UPDATING PENALTY PROVISIONS, INCREASING NUMBER OF ALTERNATES FOR BOARD OF ADMINISTRATIVE APPEALS, INCORPORATING RELEVANT CHANGES IN STATE LAWS, AND OTHER AMENDMENTS RELATED TO PROCEDURES AND REMEDIES FOR CODE ENFORCEMENT #701-05**
  - F. **ORDINANCE NO. 1083 C-S and, ORDINANCE 1084 C-S RESCINDING AND REENACTING SECTIONS 2-5.201 AND 9-5.2603 OF THE ANTIOCH MUNICIPAL CODE DEALING WITH THE MEMBERSHIP OF THE DESIGN REVIEW BOARD (Introduced 11/14/06) #302-09**
  - G. **CONSIDERATION OF BIDS FOR THE REMODEL/EXPANSION OF THE COMMUNITY ROOM AT THE ANTIOCH POLICE FACILITY, (P.W. 590-3) #1301-01**
  - H. **RESOLUTION NO. 2006/123 ACCEPTING COMPLETED IMPROVEMENTS FOR EMPIRE SHOPPING CENTER SUBDIVISION, TRACT NO. 8730 (ESC NORCAL LLC AND ESC SKEPNER LLC), PW 664 #802-02**
  - I. **RESOLUTION NO. 2006/124 APPROVING THE APPLICATION FOR CALTRANS BICYCLE TRANSPORTATION ACCOUNT, (BTA) GRANT FUNDING #1402-02**
  - J. **RESOLUTION NO. 2006/125 ESTABLISHING THE AD-HOC DESIGN REVIEW COMMITTEE AND APPOINTING MEMBERS TO THAT COMMITTEE #302-09**
  - K. **SETTLEMENT AGREEMENT WITH PACIFIC GAS & ELECTRIC (PG&E) REGARDING THE PROPOSED DELTA (SAND CREEK AREA) SUBSTATION #1201-02**

**L. RESOLUTION NO. 2006/126 APPROVING A RESIDENTIAL RIGHT-OF-WAY PURCHASE AND RIGHT-OF-ENTRY AGREEMENT FOR A RIGHT-OF-WAY STRIP ADJACENT TO 2000 HILLCREST AVENUE (APN 068-091-009, ERWIN FERGUSON TRUST) #1102-04**

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

**PUBLIC HEARINGS**

**2. THE RIVERTOWN PRESERVATION SOCIETY IS APPEALING THE PLANNING COMMISSION'S DECISION APPROVING A USE PERMIT TO OPERATE A YOUTH CENTER FOR UP TO 25 YOUTHS AGES 13-18. THE PROPOSED PROJECT IS LOCATED AT 223 WEST TENTH STREET (IMPACT RESOURCE AND EDUCATION CENTER) (APN 067-091-036). UP-06-16 (#202-10)**

On motion by Councilmember Conley, seconded by Councilmember Davis the City Council unanimously continued this item to December 19, 2006.

**COUNCIL REGULAR AGENDA**

**4. MOBILE HOME PARK ISSUES; AGREEMENT WITH VISTA DIABLO MOBILE HOME PARK OR MOBILE HOME RENT CONTROL ORDINANCE (#802-01)**

City Attorney Nerland presented the staff report dated November 22, 2006 recommending the City Council accept the report and to continue the matter until December 19, 2006

Councilmember Kalinowski stated this was the final extension he would be approving.

On motion by Councilmember Conley, seconded by Councilmember Simonsen, the City Council unanimously accepted the report and continued this item to December 19, 2006.

**6. RESIDENTIAL PROJECT APPLICATION PROCESS (#204-01)**

Deputy Director of Community Development Wehrmeister presented the staff report dated November 21, 2006 recommending the City Council approve the residential development application process contained in the staff report.

Councilmember Simonsen requested staff provide the City Council with a report on the allocations for previous years.

Mayor Freitas requested staff stipulate the differences that exist in previous RDA approvals and what is being proposed.

Councilmember Kalinowski clarified unused or ungranted residential development allocations prior to Measure K are not to be retroactively granted or counted as part of the cap.

On motion by Councilmember Kalinowski, seconded by Councilmember Conley the City Council unanimously approved the residential development allocation process contained in the staff report.

## **5. AT&T PROJECT LIGHTSPEED PROCEDURES DOCUMENT #1201-04**

Assistant City Engineer Bernal presented the staff report dated November 15, 2005 recommending the Council provide input on the Draft AT&T Project Lightspeed Procedures document prior to issuance of encroachment permits.

In response to Council, Will Rigney, representing AT&T, noted the “VRAD” units would need to be placed next to existing boxes.

Assistant City Engineer Bernal stated it was staff’s intent to add wording to the agreement stating, in the event new technology developed reducing the size of the units, AT&T would be required to use the new technology, and replace the units.

The City Council provided the following input:

Conditions (attachment B):

- #30 Clarify that it refers to Monday – Friday, excluding city recognized holidays from 8:00 A.M. – 5:00 P.M.
- #31 Deleted
- #40 Delete “Bruce Walden City Inspector” and replace it with “City Inspection Office”

Procedures (attachment A):

- 6 (a) City Attorney to review wording to assure it meets her approval
- 7 (b) Articulate what the city’s expectation is for maintenance
- Require AT&T to provide a detailed installation plan to assure all residents will benefit from the program
- Plan to screen the VRAD units from view
- language that if new technology is developed prior to completion of the project, AT&T will be required to use it. L

Will Rigney, representing AT&T, briefly discussed project light speed and noted each site would be mitigated to reduce the impacts to the neighborhoods. He clarified there

goal would be to build out the city as quickly as possible and provide service to all neighborhoods.

Councilmember Kalinowski stated he was in full support of the AT&T project and a working agreement with the City pertaining to graffiti removal.

On motion by Councilmember Simonsen, seconded by Councilmember Conley, the City Council unanimously provided the previous input on the Draft AT&T Project Lightspeed Procedures document.

Mayor Freitas declared a recess at 8:09 P.M. The meeting reconvened at 8:18 P.M. with all Councilmembers present.

### **3. ORAL PRESENTATION BY ASSEMBLYMAN JOE CANCIAMILLA**

Assemblyman Joe Canciamilla gave a brief update on the legislative activities in which he had participated; adding had been a privilege to represent Antioch in the State Assembly. He acknowledged the efforts of the City Council in the California League of Cities organization and thanked the City Council for their help, cooperation and support. He recognized the contributions of Councilmember Conley and on behalf of the assembly presented him a certificate of recognition on his years of service to the City of Antioch.

Councilmember Simonsen requested Assemblyman Canciamilla send a letter to MTC in support of expediting the widening of Highway 4, improvements to Vasco Road and Highway 239.

The City Council thanked Assemblyman Canciamilla for his service and representing Antioch.

Assemblyman Canciamilla announced he would be working on the bipartisan center for research and policy issues.

### **7. UPDATE ON THE PROVISION OF INFRASTRUCTURE AND UTILITIES TO THE MAGNET SCHOOL SITE #1401-02**

Community Development Deputy Director Carniglia presented the staff report dated November 20, 2006 recommending the City Council receive and provide direction.

Tim Forrester, Antioch Unified School District (AUSD), clarified \$1.1M for construction of the frontage of Sand Creek Road was included in the purchase agreement with Pulte; however in an oversight, the money had not been set aside therefore, they were seeking a temporary solution so the infrastructure could move forward, enabling the AUSD to meet the timelines for opening the magnet school. He noted AUSD was looking into why the escrow account was not created for those funds.

In response to Mayor Freitas, Mr. Forrester reported it was the AUSD's position that if there was a revision to the southern road alignment, it could delay the project, cost additional money and jeopardize the School District being able to meet their deadlines.

Councilmember Conley stated it was his position the City should choose the appropriate alignment of the road.

Mr. Forrester noted the School District was meeting with Kaiser Permanente to discuss the temporary easement, which was part of the original Memorandum of Agreement (MOU).

Mayor Freitas clarified another major issue was the possibility of a lawsuit being filed by Kaiser against the City regarding an imprecise agreement that was entered into in 1994 pertaining to the alignment of Sand Creek Road.

Community Development Deputy Director Carniglia clarified compensation to Kaiser could be worked out in the future as long as the City could provide temporary utilities to the magnet school, which could be addressed through the Development Agreement on the Pulte property.

Mike Serpa, Vice President of Del Webb/Pulte, clarified they had worked with the School District to assure the appraisal included the infrastructure dollars necessary. Unfortunately, when escrow closed Del Webb/Pulte was not party to the documents between the buyer and seller. He reported an access road for Kaiser would be part of the offer to be submitted as an amendment to their current Development Agreement. He further noted if Del Webb/Pulte were able to build their project, they would have the funding needed to provide temporary facilities for the School District and were willing to commit the easements and pay for the water/sewer without reimbursement, however they would need to consider alternative funding for the access road.

Terry Ramus, Antioch resident, discussed the importance of the magnet school and urged the City Council to work with the developer to assure it moved forward.

Mayor Freitas requested the letter from Kaiser Permanente to the City Council dated November 28, 2006 letter become part of the record.

Councilmember Kalinowski stated he would support eminent domain and the formation of a CFD. He noted there was a large-scale senior developer who had indicated they would be willing to look at the utilities and infrastructure issues in advance of their project to be reimbursed at a later date and voiced his support of the City to move forward on that issue. He requested \$1.1M be placed in an escrow account with a written agreement, as it was agreed to in the negotiations with the School District.

Councilmember Simonsen stated he felt, due to the gross oversight of the School District, the City should determine the road location, noting he did not support eminent domain. However, the City should take correction action as soon as possible.

Councilmember Davis stated he agreed with Councilmember Kalinowski.

Councilmember Conley stated he felt the City should determine the appropriate road alignment and noted he would support the City fronting the \$1.1M with reimbursement through a CFD when Sand Creek was completed. He suggested staff work with Pulte/Del Webb on back end with the \$1.1M.

Mayor Freitas cautioned the City Council of possible legal ramifications of moving forward with eminent domain, as well as the City determining the road alignment. He expressed concern regarding Kaiser's position on the value of the property, given their repeated indications they had no plans to develop the area. He requested the City Council consider supporting option #3, scheduling meetings between now and December 19, 2006 with the various affected parties and agendizing a closed session item with legal council advising Council on potential exposure and litigation.

In response to Councilmember Conley, Antioch Unified School District Superintendent, Dr. Debra Sims indicated the School District would provide the City Council with the timelines and hard deadlines for magnet school.

Mayor Freitas stated that if it was deemed necessary for the Planning Commission to meet before the City Council considers amending or rescinding the development agreement, staff was hereby directed to schedule a special meeting.

On motion by Councilmember Simonsen, seconded by Councilmember Conley the City Council unanimously: 1) Supported option #3; 2) Placed this item on the December 19, 2006 with options to amend or rescind the development agreement; 3) Directed staff to arrange for any meetings deemed necessary, between the affected parties and Mayor Freitas, to take place prior to December 19, 2006, and; 4) Directed staff to agendize a closed session item for December 19, 2006 regarding potential exposure and litigation.

## **8. ESTABLISHMENT OF A NEIGHBORHOOD IMPROVEMENT PROGRAM #203-01**

Community Development Director/City Engineer Brandt presented the staff report dated November 20, 2006 recommending the City Council authorize the employment of one new Neighborhood Improvement Coordinator and two new Code Enforcement Officers to staff a Neighborhood Improvement Program; amend the Fiscal Year 06/07 Operating Budget by \$225,000 for program startup and operational costs, and; provide direction to staff.

Douglas Tokes, Antioch resident, voiced his support of increasing the staffing levels of code enforcement and suggested the City improve on the communication levels between the department and citizens.

Theresa Karr, representing the California Apartment Association, voiced the Association's support of the City's efforts, noting they felt it was a good program.



She requested the City Council consider piloting this program for one year to determine how it would work. She further suggested City ordinances be updated prior to launching the program.

Wayne Hancock, Antioch residents, voiced his support for the establishment of a Neighborhood Improvement Program and discussed various code violations in his own neighborhood.

Mayor Freitas requested Ms. Karr send staff recommendations regarding updating City Ordinances.

Councilmember Simonsen requested when items were brought before the City Council with potential impacts to the budget, staff provide a report of revenue and expenses for the General Fund.

Following discussion, the City Council provided the following direction:

- Directed informational mail be sent to every parcel in Antioch
- Insert all pertinent information in water bill mailings
- More specific advertisement be placed on the City's website
- Advertise on Channel 26 and 27
- Cable advertising
- Consider cost recovery from ADA

Neighborhood Improvement Coordinator Skaggs reviewed the results of the community forum survey (Attachment "C") of the staff report.

Following discussion the City Council prioritized the following list of items to be initially addressed in the program:

1. Abandoned vehicles
2. Overgrown vegetation
3. Trailers, boats and other mobile equipment
4. Garbage Cans

Timelines for addressing violations:

- 10 calendar day with regards to vehicles, overgrown vegetation and garbage cans
- 30 days with regards to RV, boats etc.

Nancy Fernandez reported they did not have alternative locations to store garbage cans in their neighborhoods.

Mayor Freitas clarified this was a pilot program to be implemented in phases, and the City would be considering how to address those individuals with challenges.

Douglas Tokes recommended notifying residents through the garbage bill.

Mayor Freitas agreed notification through utility billings would be appropriate.

Following discussion, the City Council agreed to increase the advertising budget to not exceed \$40K and staff should start in those areas of the City that generate the most calls for compliance, with the understanding the entire City should be reviewed.

Councilmember Conley suggested breaking down the City by major intersections.

On motion by Councilmember Conley, seconded by Councilmember Simonsen, the City Council unanimously authorized the employment of one new Neighborhood Improvement Coordinator and two new Code Enforcement Officers to staff a Neighborhood Improvement Program and amend the Fiscal Year 06/07 Operating Budget by approximately \$250,000 for program startup and operational costs including the previously discussed direction to staff.

Mayor Freitas adjourned to the Antioch Development Agency with all Agency Members present.

## **9. AGENCY CONSENT CALENDAR**

### **A. APPROVAL OF AGENCY WARRANTS #401-01**

### **B. AUTHORIZATION TO APPROPRIATE ANTIOCH DEVELOPMENT FUNDS FOR THE SAKURAI STREET PROJECT, (PW 528-SP1) #1102-04**

On a motion by Agencymember Conley, seconded by Agencymember Davis, the Agencymembers unanimously approved the Agency Consent Calendar.

## **AGENCY REGULAR AGENDA**

### **10. LOW AND MODERATE INCOME HOUSING FUNDING REQUESTS #903-01**

#### **A) RESOLUTION APPROVING ADDITIONAL FUNDING FROM THE LOW AND MODERATE INCOME HOUSING FUND TO MT. DIABLO HABITAT FOR HUMANITY FOR THE COMPLETION OF FOUR SINGLE FAMILY HOMES LOCATED AT 5TH AND K STREETS**

Housing Coordinator Kennedy presented the staff report dated November 28, 2006 recommending the Agency adopt the resolution.

Mike Oliver, representing Mt. Diablo Habitat for Humanity, reviewed the project funding and the request for the Agency to provide additional funding to complete the project.

**RESOLUTION NO. ADA-414**

On motion by Agency member Kalinowski, seconded by Agency member Conley the Agencymembers unanimously approved the resolution.

**B) RESOLUTION APPROVING FUNDING FROM THE LOW AND MODERATE INCOME HOUSING FUND TO THE BAY AREA HOMEBUYER AGENCY FOR THE CONTINUATION OF THE ANTIOCH FIRST TIME HOMEBUYER PROGRAM**

Housing Coordinator Kennedy presented the staff report dated November 28, 2006 recommending the Agency adopt the resolution.

**RESOLUTION NO. ADA-415**

On motion by Agencymember Conley, seconded by Agencymember Kalinowski, the Agency unanimously approved the resolution for \$360,000, limiting the administration and overhead to \$25,000.

Chairperson Freitas adjourned to the Antioch City Council, with all members present.

**PUBLIC COMMENTS** - None

**STAFF COMMUNICATIONS**

City Manager Jakel announced the following meeting schedule, noting, due to the extensive list of items in the cue to come before the City Council for consideration, he would be working with Mayor Freitas to compile the agenda for December 19, 2006.

- December 12, 2006 City Council Installation of Council members
- December 19, 2006 City Council meeting

**COUNCIL COMMUNICATIONS** - None

**ADJOURNMENT**

With no further business, Mayor Freitas adjourned the meeting at 10:57 P.M. to the next regular Council meeting on December 12, 2006.

Respectfully submitted:

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L. JOLENE MARTIN, City Clerk, CMC