

**ANTIOCH CITY COUNCIL  
ANTIOCH DEVELOPMENT AGENCY**

**Regular Meeting  
7:00 P.M.**

**August 12, 2008  
Council Chambers**

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

**1. CONFERENCE WITH LABOR NEGOTIATOR.** Employee organization: Public Employees Union Local One. Agency Designated Representative: Human Resources Director. This closed session is authorized pursuant to Government Code §54957.6.

**2. 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. re: Markley Creek; SPPI-Somersville, Inc. et al. v. TRC et al. (USDC N.D. Cal Case No C04-2648 SI); SPPI-Somersville, Inc. et al. v. Chevron (USDC N.D. Cal. Case No. C07-05824 SI). This Closed Session is authorized pursuant to Government Code §54956.9 (a).

Mayor Freitas called the meeting to order at 7:02 P.M., and City Clerk Martin called the roll.

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

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

**PLEDGE OF ALLEGIANCE**

Councilmember Davis led the Council and audience in the Pledge of Allegiance.

**PROCLAMATIONS**

Antioch Christian Center, 10 year Anniversary

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

Councilmember Davis presented the proclamation recognizing Pastor Paul and Mrs. Patricia Taylor as well as members of the Antioch Christian Center for their *10 year Anniversary*. Pastor Taylor accepted the proclamation and thanked the City Council for the acknowledgement. He invited the community to attend Reverend Archeletta's inaugural sermon on August 24, 2008.

**ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS** - None

**PUBLIC COMMENTS**

Juan Chin-Olson, Antioch resident and Owner of Pinky's Classy Car Wash, spoke to the importance of reducing pollutants entering the storm drains. She offered to work with the city to develop a program that would assist nonprofit organizations holding carwash fundraisers.

Mayor Freitas suggested Ms. Chin-Olson contact Director of Community Development Brandt and Julie Hass-Wajdowicz.

Ken Lee, Antioch resident, reiterated his previous concerns raised at City Council meetings and requested information regarding the Deputy District Attorney position as well as the agenda.

Mayor Freitas determined Chip Stein, Antioch resident, to be out of order and requested he be escorted from Council Chambers.

Douglas Tokes, Antioch resident, expressed concern regarding excessive noise from modified motorcycles in violation of City codes and traffic signals that were improperly timed.

**COUNCIL RESPONSE TO PUBLIC COMMENTS - None**

**1. COUNCIL CONSENT CALENDAR**

**A. APPROVAL OF COUNCIL MINUTES FOR JULY 8, 2008 (#301-03)**

**B. APPROVAL OF COUNCIL WARRANTS (#401-02)**

**C. LEGISLATION AND ADVOCACY (#701-04)**

**1. RESOLUTION NO. 2008/74 OPPOSING FISCALLY IRRESPONSIBLE STATE BUDGET DECISIONS THAT WOULD "BORROW" LOCAL GOVERNMENT, REDEVELOPMENT AND TRANSPORTATION FUNDS (#701-01)**

**D. REJECTION OF CLAIM (#704-07)**

**1. Deborah Edgar 08/09-1807 (property damage).**

**E. RESOLUTION NO. 2008/75 UPDATED OF THE CONFLICT OF INTEREST CODE (#707-02)**

**F. RESOLUTION NO. 2008/76 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE CONSULTING FIRM OF GRUEN GRUEN + ASSOCIATES TO PREPARE A FISCAL ANALYSIS OF THE PROPOSED NORTHEAST ANNEXATION (#202-02)**

**G. RESOLUTION NO. 2008/77 AUTHORIZING AN AGREEMENT FOR A GARAGE SALES OFFICE CONVERSION WITH ALBERT D. SEENO CONSTRUCTION COMPANY, IN MIRA VISTA HILLS, NO. 13 SUBDIVISION, TRACT 6708, LOT 80 (PW 365-13) (#802-02)**

**H. RESOLUTION NO. 2008/78 AUTHORIZING THE CITY MANAGER TO SIGN A QUITCLAIM DEED OF PROPERTY (TEMPORARY CONSTRUCTION EASEMENT) FROM THE CITY OF ANTIOCH TO LAKESHORE ANTIOCH, LP (#704-04)**

- I. AUTHORIZATION TO ENTER INTO A CONTRACT WITH RBF CONSULTING FOR THE PREPARATION OF THE HOUSING ELEMENT UPDATE OF THE GENERAL PLAN AND ASSOCIATED ENVIRONMENTAL DOCUMENTS (#202-01)**
- J. APPROVAL OF T-MOBILE CELL SITE LEASE FOR CITY-OWNED PROPERTY AT 4350 WILD HORSE ROAD (#1001-05)**
- K. GRANT FUNDING FOR WATERFRONT IMPROVEMENTS (#1107-01)**

On motion by Councilmember Moore, seconded by Councilmember Simonsen, the Council unanimously approved the Council Consent Calendar with the exception of items C, F and K, which were removed for further discussion.

Item C – Councilmember Simonsen informed the public with regards to the State’s proposal to borrow the City’s revenues and the need for the City to retain those funds. He urged the citizens of Antioch to contact Senator Torlakson and Assemblymen DeSaulnier to request the State leave local funds alone.

On motion by Councilmember Simonsen, seconded by Councilmember Kalinowski, the City Council unanimously approved item C.

Item F – Bill Worrell, Antioch resident, requested the staff report clarify by a vote of 1 to 7, the owners in Area 2a were clearly opposed to annexation. Additionally he stated while moving forward for annexation in the area, the City should explore infrastructure needed for the continuation of the trail system.

Deputy Director Advanced Planning Carniglia indicated Mr. Worrell was correct and the clarification was noted. Additionally, he noted the fiscal analysis could include the infrastructure for the trail system.

On motion by Councilmember Simonsen, seconded by Councilmember Davis, the City Council unanimously approved item F.

Item K – Rick Robinson, Antioch resident, expressed concern over the closure of the Antioch Boat Ramp and the lack of planning for a park at Rodgers Point. He provided a petition signed by approximately 500 people in support of a park and the boat ramp remaining open at Rodger’s Point.

Councilmember Simonsen gave a brief update regarding the grant process and possibility for development of the waterfront.

Mayor Freitas clarified the City Council had not established a policy or provided direction for the development of the Antioch waterfront area and suggested a Study Session be held with all ideas being considered for the area.

City Manager Jakel clarified the item before the City Council this evening was to look at the availability of grants.

On motion by Councilmember Simonsen, seconded by Councilmember Davis, the City Council unanimously approved item K.

Lt. Marchoke gave a brief overhead presentation on the National Night Out events which occurred on August 5, 2008.

Mayor Freitas thanked Crime Prevention Commission Chair Ho, the Crime Prevention Commission and the corporate sponsors of the event.

Lt. Marchoke thanked Mayor Freitas, the City Council and community for participating in the event.

## **PUBLIC HEARINGS**

- 2. SHEA HOMES REQUESTS APPROVAL OF MODIFICATIONS TO THE SINGLE FAMILY HOME PRODUCTS FOR THE REMAINING 110 UNITS OF THE TERRA RIDGE AT RIVERGATE (FORMERLY THE BRANCHES II) DEVELOPMENT LOCATED NORTH OF LONE TREE WAY, EAST OF CANADA VALLEY RD AND WEST OF COUNTRY HILLS DR. (APN 056-370-012, 056-370-017, 056-400-012 TO 015, 056-420-001 TO 042, 056-430-001 TO 052, AND 056-440-001 TO 010). FILE: UP-05-16/AR-05-02 (#202-10)**

Community Development Technician Stahl presented the staff report dated August 7, 2008 recommending the City Council adopt the resolution.

Mayor Freitas opened the public hearing.

### *PROPONANT*

David Best, representing Shea Homes, gave a brief overhead presentation of the modifications to the single family home products for the remaining 110 units of the Terra Ridge at Rivergate Development. He stated Shea Homes was in agreement with the conditions of approval in the staff report.

### *GENERAL*

Ken Lee, Antioch resident, suggested the developer consider adding in-law apartments into their homes.

Mayor Freitas closed the Public Hearing.

### *RESOLUTION NO. 2008/79*

On motion by Councilmember Simonsen, seconded by Councilmember Davis, the City Council unanimously adopted the resolution.

**3. BUCHANAN CROSSINGS RETAIL CENTER/ROBERT ASHIN OF CATLIN PROPERTIES REQUESTS APPROVAL OF A REZONE, PLANNED DEVELOPMENT, VESTING TENTATIVE MAP AND USE PERMIT, FOR A PROPOSED 103,139 SQ. FT. SHOPPING CENTER LOCATED ON THE NORTHWEST CORNER OF BUCHANAN AND SOMERSVILLE ROADS. (APN: 074-080-013) FILE: PD-07-01, UP-07-06, AR-07-08 (#202-03)**

Project Consultant Gillarde presented the staff report dated July 29, 2008 recommending the City Council 1) approve the resolution adopting the Buchanan Crossings Retail Project Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, 2) introduce the ordinance by title only, 3) introduce the ordinance rezoning approximately 13.5 acres comprising the Buchanan Crossings Shopping Center site to the Planned Development District (P-D); and 4) approve the resolution adopting a Final Development Plan, Use Permit and Vesting Tentative Map for the Buchanan Crossings Shopping Center contingent on adoption of the rezoning ordinance.

Additionally, she noted subsequent to the staff report the applicant had requested the following modification to item #1 on page 9 of the staff report deleting "of distilled spirits" from the last line.

Mayor Freitas reported the City Council has received correspondence from the City of Pittsburg dated August 11, 2008 regarding the application.

John Cook, representing Circlepoint, stated the letter from the City of Pittsburg was included in mitigated negative declaration and they had addressed all the issues.

Alexander Eagle, representing Fresh and Easy, gave a brief description of the grocery store operation.

In response to Councilmember Moore, Contract Planner Gillarde stated that to her knowledge there had been no economic impact assessment conducted for the area.

Mayor Freitas opened the public hearing.

*PROPONANTS*

Robert Ashin, representing Catlin Properties, Applicant and Project Manager, thanked the City of Antioch for the reception they have received and gave a brief history of the project. He introduced members of the development team and noted they were available to answer any questions. He reported they had an executed and non-contingent lease with Longs Drug Stores, who had requested the project move forward as expeditiously as possible.

Devi Lanphere, Antioch Chamber of Commerce, spoke in support of the project and urged the City Council to approve as presented this evening.

*AGAINST*

Nancy Mattingly, Oakley resident, representing herself and grocery workers in Contra Costa County expressed concern for Fresh and Easy coming into the community. She provided the City Council with a packet to review and requested consideration of information prior to the approval of the project. Additionally, she requested the public not to patronize the Fresh and Easy store and the City Council not approve the store until they could meet the standards of the other grocery establishments in the city.

*GENERAL*

Ken Lee, Antioch resident, stated he would not support hidden costs for employee benefits and discussed the importance of proper labeling of food items.

*REBUTTAL*

Mr. Eagle, speaking on behalf of Fresh and Easy, gave a brief overview of the benefits and employment practices for the retail establishment.

Mr. Warden gave a brief background of the health care plan for employees working at Fresh and Easy. He noted it was their intention to create a store that was a great place to work, environmentally responsible and would be good corporate citizens.

Mayor Freitas closed the public hearing.

Discussion ensued regarding the Design Review Board action on the application with City Attorney Nerland requesting a recess to confer with staff.

Mayor Freitas declared a recess at 8:35 p.m. The meeting reconvened at 8:47 p.m. with all Councilmembers present.

City Attorney Nerland stated that based on previous discussion, staff would recommend the Design Review Boards decision be a recommendation to the City Council to be heard at a subsequent meeting.

As requested from staff the City Council reached consensus on the following items:

- Support for the modifications to the language in the draft ordinance Section 5, as indicated in the staff report (page 9-10).
- Amending condition #50 to allow operating hours from 6:00 a.m. to 12:00 a.m. for the Longs Drug Store and drive-thru.
- Adding a condition of approval that reiterates the Municipal Code requirements for construction noise.
- Benches not be included in the landscaping for the undeveloped pads and Condition #87 be amended accordingly.

- Condition #49 be amended as follows, "That the location for the future design element on the eastern edge of the property shall be reserved for public art or other similar design element and if required, shall be reviewed and recommended by the Arts and Cultural Foundation and Design Review Board prior to installation and upon approval of the City Council.

Mr. Ashin stated he was in agreement with the recommendations as previously discussed.

Councilmember Moore stated he could not support approval of the project without an Economic Impact Assessment being completed and requested the item be continued until such time as the assessment was provided to the City Council.

Councilmember Kalinowski stated he felt the project met the expectation of the City Council for development and would be an enhancement to the community.

On motion by Councilmember Simonsen, seconded by Councilmember Davis, the City Council:

RESOLUTION NO. 2008/80  
RESOLUTION NO. 2008/81

- 1) Approve the resolution adopting the Buchanan Crossings Retail Project Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program,
- 2) Introduce the ordinance by title only with the following changes:
  - Section 5, the last two sentences deleted and replaced with the following: "Permitted uses include incidental off-sale alcohol sales for two tenants within a grocery, supermarket, or drug store provided the area devoted to alcoholic beverage sale and display is no more than 5% of the total gross floor area of the store.",
  - Section 6 - Replace with the following "That the Design Review Board shall make a recommendation to City Council regarding the Design Review application"
  - Adjust the Ordinance numbering for Sections #6 and 7 to 7 and 8 accordingly,
- 3) Introduce the ordinance rezoning approximately 13.5 acres comprising the Buchanan Crossings Shopping Center site to the Planned Development District (P-D); and
- 4) Approve the resolution adopting a Final Development Plan, Use Permit and Vesting Tentative Map for the Buchanan Crossings Shopping Center contingent on adoption of the rezoning ordinance. With the following changes to project specific condition #49.

#49 That the location for the future design element on the eastern edge of the property shall be reserved for public art or other similar design element and if required, shall be reviewed and recommended by the Arts and Cultural Foundation and Design Review Board prior to installation and subject to approval of the City Council.

The motion carried by the following vote:

Ayes: Freitas, Kalinowski, Davis, Simonsen

Noes: Moore

Mayor Freitas declared a recess at 9:20 p.m. The meeting reconvened at 9:28 p.m. with all Councilmembers present.

## **COUNCIL REGULAR AGENDA**

### **4. PREWETT PARK COMMUNITY FACILITIES FINAL DESIGN DEVELOPMENT APPROVAL (COMMUNITY CENTER/POLICE SERVICE CENTER) (#1402-03)**

Project Manager Karste presented the staff report dated August 1, 2008 recommending the City Council review and approve the Final Design.

Mark Read, representing Noll and Tam, gave a brief overhead presentation of the Prewett Park Final Design.

Aditya Advani, representing RHAA Landscape Architects, reviewed the site plan and concepts used for landscaping the Prewett Park project.

Councilmember Simonsen suggested if the main bid should come under budget, the eastern parking lot and central spine could be included in the price estimates.

Chris Valenta, Antioch resident, requested information on energy efficiency and safety features of the community center. He suggested an indoor pool would be utilized more than the basketball court.

Ken Lee, Antioch resident, suggested a permanent generator and a cool down center for seniors as well as an emergency shelter for disasters.

Project Manager Karste reported solar energy was evaluated, however there was not sufficient southern exposure to provide enough coverage to be financially feasible. There was space for a portable generator and the building could be utilized as a shelter in the event of an emergency. He noted a maintenance guide would be developed with the project.

Mr. Advani clarified all the proposed plants were appropriate to the climate of the area.

Mark Reed stated the building would meet the strictest building codes for seismicity and they would be using a buckle resistant brace frame.

Mayor Freitas provided the following input:

- Sound retention system between the Multipurpose room and kitchen
- Limit the use of the gold color on the building

Mayor Freitas thanked the consultants for doing an outstanding job on the project.

Project Manager Karste stated the signage, parking lot and main spine would be coming back to the City Council and reviewed the project schedule.

On motion by Councilmember Davis, seconded by Councilmember Simonsen, the City Council unanimously approved the final project design.

## **5. FINANCIAL PLAN FOR THE WATER AND WASTEWATER ENTERPRISES (#409-01)**

Director of Capital Improvements/Water Rights Harrington presented the staff report dated July 24, 2008 recommending the City Council: Receive information and provide direction to staff to consider implementation of proposed adjustments in water and wastewater rates for Fiscal Year 2008/09 and Fiscal Year 2009/10.

Councilmember Simonsen stated if the City and Council proceeded with the rate increase, a great effort was made to inform the public of the Prop 218 process.

Councilmember Kalinowski requested a mid-year review of the variable fees and rates.

Councilmember Moore voiced his support for the rate structure as presented.

On motion by Councilmember Moore, seconded by Councilmember Simonsen, the City Council unanimously provided direction for a Prop 218 election to be held with 4% increases in water and waste water for fiscal year 09-10.

## **6. COMMUNITY NUISANCE RESPONSE (#1301-01)**

Police Captain McConnell presented the staff report dated August 4, 2008 and gave a brief overhead presentation recommending the City Council receive and file the report.

Councilmember Kalinowski stated Crisis Intervention Training in conjunction with the Behavioral Health Court and the Countywide Homeless Committee could be tools to address chronic chemically dependent individuals. He thanked Captain McConnell for the report.

Councilmember Simonsen requested information regarding the California Code pertaining to the County Health Department's jurisdiction of street vendors.

Neighborhood Improvement Coordinator Graham and Captain McConnell discussed enforcement issues for illegal street vendors and individuals panhandling.

Mayor Freitas requested if the City needed to have an individual nominated and appointed to the Countywide Homeless Committee prior to the Mayor's Conference, that the item be placed on the September 9, 2008 agenda.

Mayor Freitas adjourned to the Antioch Development Agency. City Clerk Martin called the roll with all Agency Members present.

## **AGENCY REGULAR AGENDA**

**7. APPROVAL OF A RESTAURANT INCENTIVE AGREEMENT FOR \$300,000 WITH BASES LOADED RESTAURANT AND BAR LLC (#901-01)**

Economic Development Director Bjerke presented the staff report dated August 7, 2008 recommending the City Council A) Approve the Restaurant Incentive Agreement (RIA) in the amount of \$300,000 with Bases Loaded Restaurant and Bar LLC (Bases Loaded) and authorize the Executive Director to sign it, B) Authorize staff to carry forward \$300,000 reserved for the project in the 2007-08 Agency budget and amend the 2008-09 Agency budget by the amount.

Ken Lee, Antioch resident, requested details of the business plan and asked if it would be reviewed by the City prior to approval of the incentive agreement. He suggested the City support existing businesses in the downtown area.

Devi Lanphere, Antioch resident, spoke in support of the incentive agreement and urged the City Council to support and ratify the promised funds.

Terry Karp, Antioch resident, gave a brief history of the project and a presentation of his business proposal for the Bases Loaded Restaurant.

In response to Chairperson Freitas, Economic Development Director Bjerke stated the applicant had provided the City with a business plan, which addressed questions rose during Public Comment.

On motion by Agency Member Simonsen, seconded by Agency Member Kalinowski the Antioch Development Agency unanimously A) approved the Restaurant Incentive Agreement (RIA) in the amount of \$300,000 with Bases Loaded Restaurant and Bar LLC (Bases Loaded) and authorize the Executive Director to sign it, B) authorized staff to carry forward \$300,000 reserved for the project in the 2007-08 Agency budget and amend the 2008-09 Agency budget by the amount.

Chairperson Freitas adjourned to the City Council meeting with all Councilmembers present.

**PUBLIC COMMENTS**

Chris Valenta, Antioch resident, reiterated his concern related to his participation on the RV subcommittee and urged the City Council to abolish the grand fathering clause.

Councilmember Moore stated he respected Mr. Valenta's position on the issue however it was the purview of the City Council to consider the subcommittee recommendation and take the action they deemed as appropriate.

**STAFF COMMUNICATIONS**

City Manager Jakel reported the Mayor's Conference would be held on Sept 4, 2008 at Lone Tree Golf Course and the next City Council meeting was scheduled for Sept 9, 2008.

**COUNCIL COMMUNICATIONS**

Councilmember Simonsen wished Rick and Janice Carraher a happy 40th Wedding Anniversary.

Mayor Freitas welcomed Hillary Costa as the new reporter from the Contra Costa Times assigned to the City.

With no further business, Mayor Freitas adjourned the meeting at 11:22 p.m. to the next regular Council meeting on September 9, 2008.

Respectfully submitted:

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L. JOLENE MARTIN, CMC, City Clerk