

ANTIOCH CITY COUNCIL

Regular Meeting
7:00 P.M.

June 25, 2002
Council Chambers

Pursuant to Government Code Section §54952.2 the City Council Agenda for June 25, 2002 was posted on the door of the City Council Chambers, 3rd and "H" Streets on June 20, 2002.

6:30 P.M. – CLOSED SESSION

1. **CONFERENCE WITH LABOR NEGOTIATOR** -- City Negotiator: Bill May. Employee Organization: All Negotiating Units. This Closed Session is authorized by Government Code §54957.6.

Mayor Freitas reported no action was taken.

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

Present: Councilmembers 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 announced Uril "Compy" Compomizzo and Jerri Provine had recently passed away and spoke of their individual contributions to the City.

Mayor Freitas welcomed the new Acting City Manager Linda Pappas Dias to her first City Council meeting.

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Michelle Snyder, Academic Adventures in America a non-profit organization, stated her organization hosted families from foreign countries, and urged anyone interested in participating to please contact her.

Rick Carraher, President Antioch Rivertown Business Association, presented a Power Point Presentation of the upcoming events for the Fourth of July Celebration.

ANNOUNCEMENT OF BOARD AND COMMISSION OPENINGS

Police Crime Prevention Commission - One (1) Vacancy

City Clerk Martin announce the City was accepting application for an unexpired term of office on the Police Crime Prevention Commission, which would expire in 2003. She further stated the Commission meets on the 3rd Monday of each month at 7:00 P.M. in the Police Department's Community Room. Applications could be picked up at the City Clerk's Office in City Hall, requested to be mailed, or downloaded on the City's internet site. She

further noted it would also be advertised in the San Francisco Chronicle and the Ledger portion of the Contra Costa Times. Ms. Martin stated the next anticipated opening will be in November for the Design Review Board.

PUBLIC COMMENTS

Karen Kops, Halo Organization, expressed her appreciation to the Council and City for their support on the 4th Annual Ramble around the Reservoir and the Pet Information Fair held on May 19th.

Michele Copeland, Antioch Chamber of Commerce, announced the Chamber of Commerce would be sponsoring a golf tournament on Friday, July 12 and requested anyone interested in participating or sponsoring raffle prizes, to call the Antioch Chamber.

Elvin Scott discussed the Pension Benefit Guarantee Corporation's efforts to protect pension funds and thanked the community for their support.

Mayor Freitas urged Antioch's citizens to use safety precautions on the Fourth of July.

COUNCIL CONSENT CALENDAR

- A. APPROVAL OF COUNCIL MINUTES FOR MAY 28, 2002 (*Con't to 7/9/02*)** #301-03
- B. APPROVAL OF COUNCIL WARRANTS** #401-02
- C. APPROVAL OF TREASURER'S REPORT FOR MAY, 2002** #401-02
- D. RESOLUTION NO. 2002/93 ESTABLISHING THE APPROPRIATIONS LIMIT FOR THE 2002-2003 FISCAL YEAR** #401-01
- E. RESOLUTION NO. 2002/94 ACCEPTING WORK AND AUTHORIZING THE CITY ENGINEER TO FILE A NOTICE OF COMPLETION FOR INSTALLATION OF RESTROOMS AT MOUNTAIRE PARK AND ANTIOCH COMMUNITY PARK. (PW 394-16A)** #1402-03
- F. LEGISLATION AND ADVOCACY** #701-04
- G. REVIEW OF DRAFT BID SPECIFICATION FOR REPLACEMENT OF POLICE SYSTEMS** #106-01
- H. RESOLUTION ACCEPTING COMPLETED IMPROVEMENTS FOR DALLAS RANCH, UNIT 1, TRACT NO. 7830 (CENTEX HOMES) AND AUTHORIZING THE**

**MAYOR TO SIGN A DEFERRED IMPROVEMENT AGREEMENT FOR SIERRA
CRETE STREETS (PW 580-1) (Continued) #802-02**

- I. **RESOLUTION NO. 2002/96 UPDATING THE CONFLICT OF INTEREST CODE,
APPENDIX "B", DESIGNATED EMPLOYEES AND CONSULTANTS #707-02**
- J. **RESOLUTION NOS. 2002/97, 2002/98, 2002/99, 2002/100, AND 2002/101 -
CONSIDERATION OF PROPOSED ENHANCED RETIREMENT BENEFITS FOR
ALL EMPLOYEE GROUPS (PERS) #505-03**

Councilmember Simonsen pulled Items "F" and "I"; Mayor Freitas pulled Item "H" from the Consent Calendar.

On motion by Councilmember Conley and seconded by Councilmember Kalinowski, the Council unanimously approved the Council Consent Calendar with the exception of Item Nos. F, H and I, which were removed for further discussion.

Item #F - Councilmember Simonsen requested a letter be drafted to Congresswoman Tauscher under the Mayor's signature regarding the Transportation Efficiency Act Re-authorization. He focused on the existing discretionary ferryboat fund which provides \$38M annually for the entire country. The funds focused primarily on three existing systems located in New York, Washington State and Alaska. In his representation of the City of Antioch with the San Francisco Water Transit Authority, he stated Antioch fared well and it had been determined Antioch was a viable location for ferry service. Further, the letter would include a request to Congresswoman Tauscher to request an increase in the ferryboat discretionary fund from \$38M to \$75M. Councilmember Simonsen noted additional information had been distributed to the City Council and Acting City Manager and he requested their support.

On motion by Councilmember Simonsen and seconded by Councilmember Conley, the Council unanimously directed a letter be drafted in support of the request.

Item #H - Mayor Freitas voiced his concern regarding the language contained in Attachment "B", No. C, last sentence due to the fact the City had recently received a report from DuPont Corporation and noted further action may be taken regarding Sierra-Crete. In reviewing the Deferred Improvement Agreement, he felt it needed to be more specific regarding the pending legislation; furthermore, the language did not provide the City with the flexibility needed for the future. Mayor Freitas expressed concern regarding the corrosive activity by and under Sierra-Crete, and its impact to the water and sewer lines.

City Attorney Galston requested this item be continued to a date certain, to which the Council concurred.

Item #I - Councilmember Simonsen questioned whether or not the Finance/Leisure Services Director should be listed. City Attorney Galston stated it would be appropriate

to delete the title Finance/Leisure Services Director, and; the members of the Administrative Review Board be added to Appendix B, as suggested by Councilmember Simonsen.

On motion by Councilmember Simonsen and seconded by Councilmember Kalinowski, the Council unanimously approved Item "I" with the amended changes.

COUNCIL REGULAR AGENDA

2. PROPOSALS DEALING WITH PROJECT LABOR AGREEMENTS AND CONSTRUCTION EMPLOYMENT AND TRAINING POLICY #901-01

- A. Presentation by Economic Development Commission regarding Project Labor Agreements;
- B. Presentation from Greg Feere on a Construction Employment and Training Policy;
- C. Consideration of ordinance recommended by Economic Development Commission;
- D. Consideration of resolution recommended by Greg Feere.

Acting City Manager Pappas Dias gave a brief synopsis of the overall presentation contents. City Attorney Galstan interjected Councilmember Simonsen would possibly have to abstain from this item due to an alleged conflict of interest and noted only the Fair Political Practices Commission could give an effective ruling on questions of conflicts of interest. Mr. Galstan further felt the ultimate decision should be left to Councilmember Simonsen. Councilmember Simonsen stated he would not abstain from this item. Having reviewed the items and speaking with the City Attorney, he did not feel he had a conflict of interest in this matter.

City Attorney Galstan presented the Staff Report.

Fran Vaughan, Vice Chairperson Economic Development Commission (EDC), stated he had been before Council previously with recommendations regarding the competitive nature of the current commercial development market. He stated the EDC felt McBail's policy with the McBail project had set an unfortunate precedent in attempts to attract commercial development. He stated he was now returning to the Council an ordinance drafted by the EDC regarding the use of Project Labor Agreements (PLA's) in the City of Antioch's Development Contracts with commercial and retail developers. Mr. Vaughan stated the EDC had reviewed Prevailing Wage Policy in conjunction with recently passed State Law and it was the EDC's feeling, as had been with PLA's since the outset, the EDC was not overly opposed in one way or another to PLA's or Prevailing Wages themselves. The issue the EDC had, in terms of economic development, was to prevent Antioch from placing itself at a competitive disadvantage regarding the attraction of retail and job development. Mr. Vaughan stated the EDC was currently reviewing State Law in comparison to the Redevelopment Agency prevailing wage. The EDC had determined they would not address the issue presently or in the future, unless the City found itself

disadvantaged in the job/retail market. Therefore, prevailing wage was separated from the PLA provision of the EDC's original recommendation.

In speaking to the proposed ordinance, Mr. Vaughan stated when the EDC had come before Council with their recommendations, several issues were raised. Mayor Freitas and Councilmember Kalinowski both expressed concern the EDC had not done enough to seek out opposition to the EDC's proposal. Mr. Vaughan stated the EDC had taken extraordinary steps to find opposition to their proposal in order to satisfy the concern. The EDC had invited several members who had been outspoken in their support of the use of PLA's. Mr. Vaughan stated these persons had been repeatedly invited to the EDC's meetings, and there has been numerous publicly noticed EDC agendas noting the item was slated for discussion. Furthermore, the ordinance was brought back to the EDC on four different occasions, and each time the EDC invited interested parties. Those parties who chose to attend the EDC meetings and made presentations were in support of the EDC's ordinance. Mr. Vaughan stated the EDC did request and receive from Mr. Feere of the Contra Costa Building Trades Council, extensive literature regarding the use of PLA's.

Mr. Vaughan acknowledged Councilmember Kalinowski's concern regarding Antioch being at a competitive disadvantage was unwarranted due to the County having recently approved a PLA ordinance that would apply to projects in the City of Oakley. Unfortunately, through research, the EDC found the assessment was in error as the County ordinance only applied to Public Works projects over \$1M. Therefore, it would not affect issues such as the McBail, Slatten Ranch, Reynolds & Brown projects or other similar projects. Mr. Vaughan stated he had provided Council with additional information including an article from the East Bay Business Times, showing the difficulties encountered by the County using PLA's.

Mr. Vaughan stated Councilmember Kalinowski had also commented Brentwood was currently investigating the use of PLA's, and research had indicated Brentwood was working on the adoption of an apprenticeship incentive program. The apprenticeship incentive program they were considering would give developers an added incentive for using Brentwood apprentices in construction. However, the ordinance language did not require developer's to use certain contractors or apprentices. If the City wanted to consider an apprenticeship incentive program or similar incentive programs in the future, Mr. Vaughan stated the EDC would be willing to further consider these items.

Speaking to the competitive disadvantage, Mr. Vaughan stated Antioch's requirement third parties PLA's, such as the McBail Corporation, does place Antioch at a competitive disadvantage for the attraction of job creation and commercial development. Further, Councilmember Conley at the previous City Council meeting expressed concern the EDC ordinance would prohibit the use of PLA's with third parties. Mr. Vaughan stated language had been included in the EDC's proposed ordinance stating the City would not prohibit the use of PLA's, nor would it impose those agreements on private developers.

Mr. Vaughan stated Councilmember Kalinowski also questioned the timing of the proposal, and noted the EDC had cited the fact developers were aware of the problems the McBail Corporation had in dealing with the City regarding PLA's. He felt the developers needed to have those concerns addressed if Antioch wanted to attract additional job and commercial development. Mr. Vaughan further stated the McBail Corporation did not operate in a vacuum, and other commercial developers were aware of the problems the McBail Corporation had endured in attempting to build a project beneficial to the City within Future Urban Area 2 (FUA2). Also, McBail's time spent during the initial planning phase to address this issue, i.e. court mediation over related issues, delays in accepting bids, etc. are all issues other developers are not interested in experiencing. Thus, the EDC's conviction a PLA requirement would place Antioch at a competitive disadvantage with cities like Brentwood, Oakley and Pittsburg.

Mr. Vaughan stated the proposed ordinance essentially required three items: 1) prohibits the use of PLA's on development contracts, specific plans, etc.; 2) prohibits the use of apprenticeship requirements on those same types of plans, and: 3) allows any private corporation wishing to enter into a PLA to do so. He stated through the EDC research quality training or lack of job training were simply irrelevant due to the lack of evidence, by either side, to justify the risk of losing jobs to this community by requiring a PLA. Further, Mr. Feere provided ample information to the EDC regarding the supporting reasons for PLA's and the EDC wholeheartedly supported Mr. Feere's attempts to sell PLA's to independent developers as a union representative. However, there was nothing in the information or testimony the EDC received to justify the City opposing or imposing PLA's to the detriment of commercial development and job creation. Mr. Vaughan also noted the AFL/CIO and Congressman George Miller at the Federal level, have requested the voluntary use of PLA's. With this, Mr. Vaughn felt it would seem Antioch's imposing a PLA requirement would be extreme versus one of the USA's largest labor organizations.

He stated that through research of the EDC, quality or lack of job training were simply irrelevant because they could not be substantiated by either side so greatly as to justify the risk of losing jobs to the community. Further, Mr. Feere provided ample information to the EDC regarding the supporting reasons for PLA's and the EDC wholeheartedly supported Mr. Feere's attempts to sell PLA's to independent developers as a union representative. However, there was nothing in the information or testimony the EDC received that would justify the City opposing or imposing PLA's to the detriment of commercial development and job creation. Mr. Vaughan also noted the AFL/CIO and Congressman George Miller at the Federal level, have requested the voluntary use of PLA's. With this, Mr. Vaughn felt it would seem the idea of Antioch imposing such PLA's would be extreme compared to one of the largest labor organizations in the country's policy.

Mr. Vaughn stated in analyzing PLA's the bottom line was the EDC found there was nothing so beneficial to the City so as to warrant the destruction of the Council's number one stated goal of job creation and economic development. This was the reason the EDC unanimously recommended the City Council to approve the proposed ordinance and allow

staff, EDC, Council and other Commission members to have a clear policy regarding future development. He felt it would allow the City to convey to potential developers Antioch was business friendly, alleviating a fear the EDC felt Antioch would need to overcome before additional jobs would find their way into the community.

In responding to Councilmember Kalinowski's question regarding what new information was brought forward by the EDC, Mr. Vaughan stated new information sources included Congressmen George Miller's Office, the AFL/CIO, Mr. Feere, and opposition from individuals regarding PLA's. Mr. Vaughan noted the EDC made several attempts to encourage persons who have given vocal support for PLA's, such as Mr. Feere, Planning Commissioner Moore, an individual from City Staff to attend a EDC meeting and present their ideas. Mr. Vaughan stated the EDC felt the burden being placed upon the EDC to find an individual being opposed to their viewpoint was unprecedented by the Council and the consideration of an ordinance should not be heard or considered unless opposition was brought forward was contradictory to issues such as the Council's Consent Calendar.

In responding to Councilmember Kalinowski, Mr. Vaughan stated following the March 25 meeting when the Council raised the question of an opposing viewpoint, several members of the EDC made independent attempts to invite persons to every EDC meeting regarding the proposed ordinance.

Councilmember Kalinowski stated there was no data backing up any statement made by speakers in favor of the EDC's proposed ordinance, per the EDC May 6 minutes. Mr. Vaughn stated comments made at the meeting spoke to the benefits or the negatives of PLA's as a whole, and the EDC addressed those concerns at several levels.

Mayor Freitas noted it being 8:07 P.M., Public Hearing Item No. 6 would be heard at this time.

Mayor Freitas called a break at 8:10 P.M. and the Council reconvened at 8:15 P.M. with all Councilmembers present.

PUBLIC HEARING

6. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH APPROVING REVISIONS AND ADDITIONS TO THE CONDITIONS OF APPROVAL FOR THE WAL-MART USE PERMIT (UP-98-9/A) #202-03

Acting City Manager Pappas Dias provided a brief summary of the staff report. Associate Planner Oshinsky gave a slide presentation depicting photographs related to the proposed recommendation.

Mayor Freitas opened the public hearing.

Peter Kanelos, Community Affairs Manager for Wal-Mart Stores, Inc., stated due to the concerns expressed by concerned neighbors, plans had been implemented by Wal-Mart to address those issues. Mr. Kanelos stated an off-site storage area would be sought to ensure the excess storage containers were not visible in the screened area, and late night deliveries were stopped between the hours of 10:00 P.M. and 7:00 A.M., late night cleaning had stopped behind the store, and Wal-Mart had given the City the authority to enforce the RV overnight parking. Further, the garden center items were removed from the eastern portion of the parking lot. Mr. Kanelos stated this particular Wal-Mart Store was rated the second highest in volume within the district in this area, as well as the garden center being No. 3 in the country in sales.

In terms of storage containers, Mr. Kanelos spoke to its past history, and requested the present storage situation remain in order to properly service the customer within the community. He further requested all complaints come directly to Wal-Mart and not be directed to the City, and felt the system would better serve all parties.

Sandra Golightly, expressed her concerns regarding RV Parking within the Wal-Mart parking lot and storage containers. Ms. Golightly felt Wal-Mart was fully aware of the large volume they would be moving in and out of the store and expressed great concern to the number of temporary storage containers stored at the site. Furthermore, no other retailer had been allowed to temporarily store containers on their site and it would set a precedent throughout the community, especially if a Super Store is added onto the present site. Ms. Golightly distributed photographs and a handout to the Council depicting the present condition of the temporary storage containers at Wal-Mart, as well as other retailers storage areas doing business in the community.

Mr. Kanelos stated Wal-Mart did not encourage or discourage RV parking, but rather abided by the local ordinance. He further explained, other retailers did not have the volume of Wal-Mart and there could not be a comparison, in terms of storage containers. Mr. Kanelos requested the outdoor storage container situation remain per the Development Standards for this site.

Councilmember Simonsen felt satisfied with some storage at the Wal-Mart site, and other retail sites matched this, noting he did feel sympathetic to the surrounding neighborhood's concerns, in terms of noise issues. He further expressed concern to overnight RV parking, he did not want this to become practice for the remaining portion of the Williamson Ranch or any other shopping facilities. He felt if a condition was to be placed on Wal-Mart to have the City Police enforce the overnight RV parking, it would have to be condition throughout the community, and the Council needed to seriously consider the issue for all upcoming projects. Councilmember Simonsen recommended the City post signs throughout the community stating RV parking was available at the Antioch Fairgrounds.

Councilmember Conley questioned the definition of temporary storage, wherein Associate Planner Oshinsky stated "temporary" had not been specifically defined, in terms of length

of time. Councilmember Conley then stated his concern was the temporary storage becoming permanent in nature, and felt a precedent was being set. He further spoke to the large volume presently conducted at this site, but stated he was not in favor of making the outdoor storage area permanent and felt a specific date needed to be set to have the storage containers removed.

Councilmember Kalinowski expressed concern regarding the 'temporary' use of storage containers, in terms of aesthetics and truck traffic and agreed a date needed to be set to remove the containers off site. He further felt the large volume of storage containers may be lessened when other similar type of retailers are constructed within the area, and this would also create an impact on Wal-Mart's business.

On motion by Councilmember Conley approving a Use Permit for temporary storage of 14 containers for a time period of 18 months, at which time they are to be removed.

The motion failed due to a lack of a second.

On motion by Councilmember Simonsen and seconded by Councilmember Davis approving a Use Permit for Wal-Mart located at 4893 Lone Tree Way with the additional wording added to Project Specific Condition No. 8 to read: " storage containers be permitted for temporary storage within the screened in area on the west side of the building for a period of 18 months after which time it would be returned to Council."

Motion failed by the following vote.

Ayes: Davis and Simonsen

Noes: Freitas, Kalinowski and Conley

RESOLUTION NO. 2002/103

On motion by Councilmember Kalinowski and seconded by Councilmember Conley, Council unanimously approved Staff's recommendation with Project Specific Condition No. 8 amended to read: " storage containers be permitted for temporary storage within the screened in area on the west side of the building for a period of 12 months, at which time they would be removed completely."

The Council returned to Item No. 2.

**2. Proposals dealing with Project Labor Agreements and Construction
Employment and Training Policy #901-01**
(Continued)

Greg Feere, Contra Costa Building Trade Council, stated he had presented additional information to the EDC for their review, as well as visiting Ms. McCaffery at her office to further explain in detail his concerns. In speaking to Prevailing Wage Agreements, Mr. Feere stated they had been in place for 65 years and California had never been at an

economic disadvantage. Further, approximately 15 years ago Antioch felt it would be in their best interest to enact a Prevailing Wage Ordinance and there had never been a project turned away because of prevailing wages. Mr. Feere further noted Contra Costa County had adopted a similar Prevailing Wage Ordinance which had been in effect for almost 15 years, without ever having had a project denied because of prevailing wages. Mr. Feere explained prevailing wages were a living wage with a health benefit and a pension for retirement.

Mr. Feere noted he had sent literature to the EDC regarding the 'facts' of prevailing wage agreements written by Peter Phillips from the University of Utah, wherein prevailing wages were not used and the project failed. As for the payment of prevailing wages, he further noted both Slatten Ranch and the Reynolds & Brown projects were adhering to prevailing wages. Mr. Feere felt the only reason to get rid of prevailing wages would be for greed or ignorance, because prevailing wages protect both the union and non-union worker.

Mr. Feere noted various projects were built with PLA's and noted their favorable safety statistics, and added PLA's do not exclude non-union workers. In speaking to apprenticeship-training programs, he stated there was no cost to the taxpayers or apprentices themselves, and apprenticeship-training standards were now being required on projects as well as developments.

Mr. Feere stated a poll was recently taken in Eastern Contra Costa County, as well as a similar poll in Western Contra Costa County, addressing the issue of apprenticeship-training standards being required on development projects. It came back 77% in favor for the City of Richmond and West County area. When polled in Antioch and the East County area, it came back even stronger at 80%. Mr. Feere clarified the McBail project did not contain a PLA; they actually have a development agreement with apprenticeship-training standards.

Mr. Feere recommended his proposal be reviewed by the Council, as well as the facts and information, and it be adopted as such.

Sonora Benson, Attorney for the Contra Costa Building Trades Council, stated she had extensive training in PLA's, in terms of litigation, and noted such cases. Ms. Benson felt the proposed EDC ordinance was illegal and she based this upon the fact she had been successful in striking down the executive order President Bush enacted forbidding PLA's on any federally funded project. Ms. Benson felt the EDC's proposed ordinance went further than the Bush executive order, in it did not allow you to require PLA's and it had a provision stating it would not prevent public or private parties from entering into PLA's. Ms. Benson noted the Bush executive order also had the exact same language, and the Court found did not save the executive order from being illegal. She felt the basis for the illegality was the pre-eminence of the National Labor Relations Act, which is the Federal Law governs labor relations. She noted she possessed copies of the Court's decision in the Bush executive order case, and the doctrine states "If the National Labor Relations Act governs a particular area, neither the Federal Government, the State Government, or

local government can pass legislation in the same area." She also stated what the Court found in the executive order case was even though the Bush Administration was justifying this upon trying to find a level playing field, and as the Court said it was his notion of what would be the fair balance between labor and management, the Bush executive order did not have the authority to infringe upon the area reserved for Federal Law.

Ms. Benson read "The Supreme Court has consistently held a State, local or federal government lacks the authority to introduce some standard of properly balanced bargaining power or to define why economic sanctions might be permitted to negotiating parties in an ideal balance state of collective bargaining." Ms. Benson stated it was precisely what President Bush has attempted to do with the executive order, and the executive order impermissibly attempts to create an ideally balanced state of bargaining according to the President's conception of open competition among labor and management. Ms. Benson felt if the President of the United States does not have the authority to do it, the City of Antioch did not have the authority. She requested the Council take into consideration Contra Costa Building Trades Council, the only local Building Trades Council in the United States, has the spirit to sue the President and win.

With respect to the apprenticeship-training programs, Ms. Benson stated she also represented the California Apprenticeship Coordinators Association, which was an association who has trained over 41,000 apprentices within the State of California. She was also a member of the Blue Ribbon Committee on Apprenticeship Standards for the State of California and serves on the Advisory Board to the California Apprenticeship Council of Rules and Regulations Committee. She further expressed the importance of apprenticeship programs, in terms of serving the youth of the community and the valuable skills are learned.

Ms. Benson requested the Council not pass the proposed EDC ordinance, as a matter of legality, prohibiting PLA's and to approve the policy dealing with apprenticeship-training program. She further noted she would distribute further information pertaining to the Bush executive order case for the Council.

The following individuals spoke and concurred with the importance of mandatory union apprenticeship-training programs, Prevailing Wage Agreements, and Project Labor Agreements and stated their support of Mr. Feere's proposed resolution:

Carol Larsen, David Green, Fred Shaffer, Ronald Lee, Brice Woods, Jerry Martin, Joseph, Rick Menard, Carl Grandin, Bob Oliver, Mike Morelli, Patrick Dennis, Richard Haro, Aran Hodess, Wayne Waldecker, Tom Baca, Wilfred J. Scott, President of East County Chapter of NAACP, Gail Mercer, Theresa Golden, Rob Laxner, Ray Johnston, Argentina Davila-Luevano, Gary Downey, Kevin Van Buskirk, Dale Peterson, Gary Woodworth, Tom Stater, Constance Petersen, Darnell Turner, State Education Chairman, NAACP State Conference of California Chapter.

The following individuals submitted speaker cards concurring with the importance of mandatory union apprenticeship-training programs, Prevailing Wage Agreement, and Project Labor Agreements and stated their support of Mr. Feere's proposed resolution: Michael Armstrong, Brian Burrow, John Dalrymple, Mike Cooper, Kevin Teeples, Eric Bailey, Ron Slate, Dewayne Brewer, Kenneth Bottomley, David Cox, Tom Ferrante, Ray Parks, Jeff Madison, Jack Brown, George Herrera, Chad Wadlow, Rich Wentworth, Paul Dutra, Ellwyn Ashly, Chris Greaney, Mel Breshears, Cheryl Brown, David Brown, Joe Goglio, Joe Mikich, Brian Brackenbury, Charles Ramsey and Jim Stroup.

The following individuals spoke in favor of the proposed EDC ordinance: Allen Payton, Sandy Henry, Michelle Copeland, James Kyle, Pat Leiser, Nancy McCaffery, Chairperson of Economic Development Commission. Eric Christen, Coalition for Fair Employment and Construction, expressed his concern to PLA's and his coalition was formed to oppose PLA's statewide. He felt a PLA represented a political document brought to you from a vocal minority group within the construction industry. Further, he was opposed because a contractor or employer, other than the building trades and the owner, could not negotiate a PLA. Further with a PLA, all pension and health and welfare benefits have to be paid into a union pension plan, and felt a non-union individual should not have to pay into a plan in which individual would never see the benefits. In speaking to union apprenticeship-training programs, Mr. Christen felt state approved non-union apprenticeship-training programs were of equal benefit.

Kevin Dayton, Golden Gate Chapter, Associated Builders & Contractors, stated his organization operated state approved apprenticeship programs in several trades and felt fair and open competition did work. In terms of PLA's, Mr. Dayton stated they contained a wide variety of provisions are meant to exclude the non-union contractor and their workers, the biggest requirement being the non-union employer has to pay health and welfare benefits into the union trust funds instead of their own benefit plans. He requested when the Council considers a resolution to ban PLA's, please keep this particular aspect in mind, it is discriminatory. In speaking to the apprenticeship-training programs, the unions operate excellent programs, but expressed concerns to the requirement an individual would have to have a certain number of years of graduates. He felt the point of this was to exclude the non-union programs because they have not been in place for a long period of time.

Manny Soliz recommended the Council consider the union and non-union issues and vote for what is right for the community of Antioch.

Councilmember Conley requested additional information from City Attorney Galston regarding Ms. Benson's remarks stating the proposed EDC was illegal. Mr. Galston stated he was not familiar with the case she had brought forward and felt he needed additional information before he could make any additional comments.

Councilmember Simonsen stated Ms. Benson's case was brought before the U.S. District Court for the District of Columbia and she eluded to the fact it had gone before the

Supreme Court. To his knowledge, it had not been resolved through the U.S. Court of Appeals and further it had not yet gone to the Supreme Court. Mr. Galston stated Ms. Benson's reference to the Supreme Court was to the California Supreme Court case which had to go with the San Francisco Airport project which approved the use of labor agreements for those types of public works projects. But the status of the case involving the Bush executive order, Mr. Galstan was uncertain if it has been appealed, or the status of the appeal.

Councilmember Conley felt the issue should be broken down into two parts, one being PLA's and the other being apprenticeship-training programs. He felt the State had gotten involved in prevailing wages through SB975 and the EDC had withdrawn portion of the issue, so it would not need to be discussed. He did see PLA's and apprenticeship-training programs as two separate items, and felt those companies wanting to have a PLA should be left to their discretion. He felt government should not decide if a PLA should be required, and if a developer or a project company wanted to get into an agreement with a labor association and move forward, should also be left to their discretion. He felt where local, State and Federal government get in the way, is when it should be mandated. Councilmember Conley stated he did felt PLA's get the job done on time and on budget and it had been proven and what he was opposed to was a mandated PLA. He felt the City should not be involved in this decision and requested to have the apprenticeship-training program referred to the EDC for further study. He further voiced his support of not requiring PLA's in the City of Antioch.

Councilmember Davis felt uncomfortable in supporting Mr. Feere's proposed resolution without having the Council review it thoroughly, as well as the EDC and Staff.

Mayor Freitas stated his support of prevailing wage, apprenticeship-training programs and PLA's and was more convinced all three of these policies were important, particularly to the economic development of the City. In terms of a free market, Mayor Freitas felt programs such as unions, Social Security, Worker Compensation, minimum wage, and health & welfare benefits all evolved out of the labor movement. Mayor Freitas felt from his perspective, it was an issue of balance, not only from those who propose coming in and building a business, but also for those who are actually going to be building the facility. Mayor Freitas stated he wanted individuals in the City and the Eastern Contra Costa County to have a livable wage, benefits and a training program, in which a PLA provides. Further, the City should impose policies to the greater economic benefit and well being of this community.

Councilmember Kalinowski spoke to past comments made by the EDC and felt from the beginning of the issue an imbalance existed with all parties involved. He further expressed concern regarding the EDC not having submitted adequate information from both sides of the issue, with which he could not make an informed decision. In researching on his own, Councilmember Kalinowski supported PLA's, until proven otherwise, and noted it did not mean every project in the City would be required to enter into a PLA. He felt the proposed EDC ordinance stated PLA's would be prohibited and stated he could not support this.

Councilmember Simonsen recommended the information and the proposed resolution brought forward by the Contra Costa County Trades Council be referred to the EDC for review and encouraged the Contra Costa County Trades Council to attend the EDC meetings. He further stated his support to refer the proposed resolution presented by Building Trades Council back to the EDC for further comments and review.

Councilmember Davis stressed the need for fairness. He felt nothing within the proposed EDC ordinance prevents a private party or contractor from entering into a PLA agreement and supported this. In understanding the good of the union, he stated he did believe in the right to organize and the right of collective bargaining, and felt unions do serve a purpose. Councilmember Davis noted he had toured the union apprenticeship-training school and stated his support. As a city government, he felt the Council had no business in discriminatory practices.

On motion by Councilmember Davis and seconded by Councilmember Conley, adopting the ordinance adding Chapter 5 to Title 2 of the Antioch Municipal Code, dealing with Labor Affiliation Non-Discrimination.

On the question, Mayor Freitas referred to the proposed ordinance by Mr. Ferre, Sec. 2-5.01, referring to the wording "The City of Antioch and the Antioch Development Agency" noting the Council was not convened as a Development Agency and they were only convened as a City Council and requested of the City Attorney if the motion an order with the ordinance as written. City Attorney Galstan stated the ordinance is to be entered into the Antioch Municipal Code not as a resolution of the Development Agency; therefore it would be proper to have an ordinance at this meeting. Mr. Galstan reiterated he has not had an opportunity to review the case presented by the Trade Council, nor to offer an opinion on their assertion, the ordinance may be invalid.

Mayor Freitas stated in the past when assertions have come before the Council from one attorney or another regarding legalities, the prudent thing to do was to refer the matter to Council and have Council review and render a decision, whereby it would then be returned to the Council for a final decision. Mayor Freitas stated he would not support this motion, but if the majority of the Council felt it was appropriate, he felt it would be inappropriate to take action without Council reviewing this issue, in light of the new information has been brought forward by the Trade Council. Mayor Freitas requested the item be referred to the City Attorney for further review and return to the City Council with a legal analysis and opinion.

Councilmember Simonsen stated he had been following the litigation by the Building Trades Council against the Presidential executive order. He pointed out the language within the proposed EDC ordinance is almost identical to the language in existing City law in another City within the State of California and it has not been challenged. For this reason, Section 2: SEVERABILITY was written. Therefore, Councilmember Simonsen disagreed for the need to have this issue returned.

Councilmember Conley withdrew his second, but stressed the importance of this issue moving forward and equally important the City Attorney review the issue in further detail.

With the motion still on the floor the following motion was made:

On motion by Councilmember Davis and seconded by Councilmember Simonsen, adopting the ordinance adding Chapter 5 to Title 2 of the Antioch Municipal Code, dealing with Labor Affiliation Non-Discrimination.

On the question, Councilmember Kalinowski requested Staff evaluate the entire proposal by the Contra Costa County Buildings Trade Council's to come back to the Council with a recommendation.

In light of discussion, Councilmember Davis withdrew his original motion, whereby Councilmember Simonsen withdrew his second motion.

On motion by Councilmember Conley and seconded by Councilmember Davis, the item be Continued to the City Council meeting of July 9, to further review the EDC's proposed Ordinance, refer the apprenticeship-training program to the EDC for further review and comments, and receive a legal opinion from the City Attorney.

Ayes: Conley, Davis, Simonsen

Noes:Freitas, Kalinowski

A break was taken at 11:30 P.M. and reconvened at 11:45 P.M. with all Councilmembers present.

3. APPEAL OF THE DECISION OF THE CITY ENGINEER REGARDING A FENCE ENCROACHMENT AT 4033 GALENEZ (FEDERICO AND LAKEITA BROWN). #706-02

Acting City Manager Pappas Diaz requested the item be continued to the City Council meeting of July 23, per the request of the applicant.

On motion by Councilmember Kalinowski and seconded by Councilmember Conley, the Council unanimously concurred to waive the time constraints and continue the item to the City Council meeting of July 23.

4. REQUEST FOR FUNDING OF RIVERTOWN ART CENTER #1407-03

Acting City Manager Pappas Dias provided a brief overview of the Staff Report.

Nancy Chinn, President of Arts & Cultural Foundation of Antioch, gave a slide presentation depicted the location and schematics of the proposed layout. Ms. Chinn requested the Council donate the foundation money for improvements within the building and start up funds.

Councilmember Simonsen expressed concern to the Council funding the project, without the applicant having a long term lease or a lease-purchase agreement, and requested if the item is to be approved, it be contingent upon the applicant being made to acquire a lease-purchase agreement for the building and the monies expended from the City would be applied towards the lease-purchase option. Ms. Chinn stated negotiations would be upcoming, but could not speak to the landlord regarding a lease-purchase until Ms. Chinn came before Council for the approval of the improvements. Ms. Chinn stated she would accept the Council granting monies with stipulation.

Mayor Freitas expressed concern to the business-like approach attached to the request. He expressed concern to not knowing what type of lease agreement would be entered into with the landlord, and also expressed concern as to what type agreement would be made with Los Medanos College. Mayor Freitas requested it be put in writing the types of services would be rendered from Los Medanos College, in terms of length and teaching issues. Mayor Freitas also requested further information to auditing issues and requirements. He also felt there could possibly be conflicts between classroom instruction and vendors selling their products, and requested further information regarding the protocol regarding the rules and regulations regarding the operations of the center. Mayor Freitas further requested information pertaining to permits, architectural or engineer drawings, and a detailed budget and/or business plan for the next 3-5 years.

Ward Preston spoke on behalf of the Arts & Cultural Foundation and stated the urgency of securing the building due to its increased demand.

On motion by Councilmember Simonsen and seconded by Councilmember Davis, the Council unanimously approved the conceptual disbursement of \$100,000.00 with regards to the creation of the Art Center at 640 East Second Street, subject to further information regarding the lease agreement, agreement with Los Medanos College, terms & conditions of bookkeeping, accounting and auditing, rules & regulations within the facility, and to explore a lease-option purchase.

5. RESOLUTION ESTABLISHING CONSOLIDATION OF GENERAL MUNICIPAL ELECTION WITH OTHER ELECTIONS TO BE HELD ON THE NOVEMBER 5, 2002 REGULAR ELECTION DATE AND RESOLUTION ESTABLISHING POLICY FOR CANDIDATE'S STATEMENT #702-02

Through discussions, the Council concurred to adopt a 400-word maximum limit.

RESOLUTION NO. 2002/102
RESOLUTION NO. 2002/104

On motion by Councilmember Kalinowski and seconded by Councilmember Simonsen, the Council unanimously approved the resolution consolidating the general municipal election and approved the resolution allowing a 400-word maximum limit on a candidate's statement.

PUBLIC COMMENTS

Bob Oliver expressed considerable concern to City municipal code violations existing throughout the community and requested they be enforced.

Sandra Golightly spoke on behalf of the Design Review Board, and requested the City Council consider and support the architectural use of tilt-ups on new construction.

COUNCIL REPORTS/COMMUNICATIONS

Councilmember Kalinowski reported on a recent Cal-Pine dedication.

Councilmember Simonsen reported on Water Transportation Community Advisory meeting held in San Francisco, and expressed his appreciation to the Council for their support, in terms of bringing water ferry service to Antioch. He also reported on a recent East Bay Division of League California & Cities meeting.

In light of a recent plane crash in the southwestern portion of the City limits, Councilmember Conley requested City Staff prepare a letter for the Mayor's signature addressed to the County Board of Supervisors, County Airport Authority and any other pertinent parties, requesting aerobatics be prohibited, due to the growth of the community.

Mayor Freitas reported on a recent meeting held with the East County Policy Advisory Committee/Transplan, reviewing different transportation alternatives within Eastern Contra Costa County. In regards to an alternative transportation plan for the Fairgrounds, he requested a joint meeting be held between the Council, Planning Commission and Board of Directors of the Fairgrounds.

Mayor Freitas also reported on a recent police sponsored dinner for police volunteers, and he expressed his appreciation to the police department.

STAFF COMMUNICATIONS - None.

ADJOURNMENT

With there being no further business, Mayor Freitas adjourned the meeting at 12:30 A.M. to the next regularly scheduled meeting of July 9, 2002.

Respectfully Submitted

L. JOLENE MARTIN, City Clerk

Approved:

DONALD P. FREITAS, Mayor

Attest:

L. JOLENE MARTIN, City Clerk