

**ANTIOCH CITY COUNCIL  
ANTIOCH DEVELOPMENT AGENCY**

Regular Meeting  
7:00 P.M.

September 10, 2002  
Council Chambers

Mayor Pro Tem Kalinowski called the meeting to order at 7:03 P.M., and City Clerk Martin called the roll.

Present: Council Members Simonsen, Davis, Conley, Mayor Pro Tem Kalinowski  
Excused: Mayor Freitas

Mayor Pro Tem Kalinowski announced Mayor Freitas is out of town on business.

**SPECIAL MEMORIAL IN MEMORY OF VICTIMS OF 9/11/01**

**PLEDGE OF ALLEGIANCE**

Police Chief Moczulski, Fire Chief Richter and Community Service Officer Ming led the Council and audience in the Pledge of Allegiance.

Antioch High School Music Masters sang the "Star Spangled Banner."

Mayor Pro Tem Kalinowski played a taped message from the President of the United States, George W. Bush.

Councilmember Davis presented plaques to several residents of Quail Lodge in recognition of their contribution of over 400 hand made patriotic pins for the evening's memorial.

Mike Pickrell, Manager of Quail Lodge, reported the residents had spent approximately 180 hours working on the pins, and introduced each participant.

- 1. RESOLUTION TO FLY THE AMERICAN FLAG AT HALF-STAFF SEPTEMBER 11, 2002 IN HONOR THOSE WHO LOST THEIR LIVES IN THE TERRORIST ATTACK OF SEPTEMBER 11, 2001**

***RESOLUTION NO. 2002/137***

On motion by Councilmember Conley, seconded by Councilmember Davis, the Councilmembers present unanimously approved the resolution.

Councilmember Simonsen proposed he and Councilmember Kalinowski draft a joint resolution by the Antioch City Council addressed to Congresswoman Tausher, Senators Feinstein and Boxer and the President of the United States to amend Title 4 of Chapter 1 of the United States code to allow municipalities, special districts, counties and the states to have the ability using proper protocol and etiquette to be able to lower the flag

to half-mast in honor of residents. He requested this item be agendized for October 8, 2002.

Reverend Roy Peacock provided the Invocation.

Mayor Pro Tem Kalinowski lit a candle in memory of the victims of September 11, 2001, noting it was the same candle used in 2001, after the initial attacks.

Toree McGee sang "America the Beautiful."

Mayor Pro Tem Kalinowski adjourned the City Council meeting to the 9-11 Memorial outside of the Council Chambers.

Following the Memorial Services, Mayor Pro Tem Kalinowski called for a 15-minute break. The Council reconvened at 8:18 P.M. with all Councilmember present with the exception of Mayor Freitas who was previously excused.

## **PUBLIC COMMENTS**

Elvin Scott announced the Union All Pension and Democratic Research Center Inc. would be meeting on Sept 21, 2002 at 2:00 P.M. at the Antioch branch of the Contra Costa Library. He discussed his efforts to promote his television show on pension benefits to other Cities.

Carol Lee reported she was recently attacked outside of the Antioch Police Department and expressed concern there was no one in the station to respond to her call for help.

Mayor Pro Tem Kalinowski requested Ms. Lee meet with Chief Moczulski to discuss any issues needing to be resolved.

Theresa Rhodes invited the City Council and community to attend the Power for Living Ministries Prayer Vigil commemorating September 11, 2001 at 7:30 P.M. at Black Diamond Middle School. She provided a phone number for anyone wishing to receive additional information.

Councilmember Conley wished his grandson Tyler Wristen a happy 3rd birthday.

## **PUBLIC HEARINGS**

- 3. RESOLUTION ABANDONING PROCEEDINGS FOR COMMUNITY FACILITIES  
DISTRICT NO. 2002-1 (EAST LONE TREE) #409-03**
- 4. RESOLUTION ABANDONING PROCEEDINGS FOR INTEGRATED FINANCING  
DISTRICT NO. 2002-1 (EAST LONE TREE) #409-03**

Assistant City Engineer Bernal presented the staff reports for both items dated September 5, 2002 recommending the Council adopt the resolutions abandoning the proceedings.

Mayor Pro Tem Kalinowski opened and closed the public hearing with no speakers requesting to speak.

***RESOLUTION NO. 2002/146***  
***RESOLUTION NO. 2002/147***

On motion by Councilmember Conley, seconded by Councilmember Simonsen, the Councilmembers present unanimously adopted the resolutions.

**5. RESOLUTIONS DECLARING THE NECESSITY OF ACQUIRING PROPERTY BY EMINENT DOMAIN FOR RIGHT-OF-WAY FOR THE LONE TREE WAY IMPROVEMENT PROJECT (Immanuel Baptist Church Property and East Contra Costa Irrigation District - McFarlan parcel) #1102-04**

City Attorney Galstan presented the staff report dated August 28, 2002 recommending the City Council adopt the resolutions.

Mayor Pro Tem Kalinowski opened and closed the public hearing with no speakers requesting to speak.

In response to Councilmember Simonsen, City Attorney Galstan clarified the court would determine ownership and funds entitlement.

***RESOLUTION NO. 2002/148***  
***RESOLUTION NO. 2002/149***

On motion by Councilmember Conley, seconded by Councilmember Davis, the Councilmembers present unanimously adopted the resolution.

**ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS**

David Williamson announced the Delta Blues Festival would be held on September 15, 2002 at Waldie Plaza from 12:00-6:00 P.M. He thanked the Rivertown Business Association, Arts and Cultural Foundation and City of Antioch for their support of the event.

**ANNOUNCEMENTS OF BOARD AND COMMISSION OPENINGS**

City Clerk Martin announced the City was seeking applications for one unexpired term on the Parks and Recreation Commission and three pending vacancies for the Design Review Board. She noted the deadline to submit applications was October 4, 2002 at 5:00 P.M. and provided contact numbers for anyone wishing to receive additional information.

## PROCLAMATIONS

Coastweeks and California Cleanup Day, September 21 - October 12, 2002  
Driftwood Yacht Club Day and Make-A-Wish Day, October 5, 2002

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

Councilmember Conley presented the proclamation proclaiming Sept 21 - October 12, 2002 as Coastweeks and California Cleanup Day to Parks Superintendent Palmeri who presented t-shirts to the City Council and announced the Coastal Cleanup Day on September 21, 2002 at the Antioch Marina and Rogers Point at 9:00 A.M.

Councilmember Simonsen presented the proclamation proclaiming October 5, 2002, as Driftwood Yacht Club Day and Make-A-Wish Day to Commodore Scott Kendrick who presented pins to the City Council and announced the Make-A-Wish Day would be held on October 5, 2002 at the Driftwood Yacht Club. He provided a contact number for anyone wishing to attend the event.

## 2. COUNCIL CONSENT CALENDAR

- A. APPROVAL OF COUNCIL MINUTES FOR JULY 23, 2002 #301-03
- B. APPROVAL OF COUNCIL WARRANTS #401-02
- C. APPROVAL OF TREASURER'S REPORT - July 2002 #401-02
- D. REJECTION OF CLAIMS #704-07
  - 1. Claim of Maria Enrique, #02/03-1320
  - 2. Claim of Debra Barton, #02/03-1317
- E. **ORDINANCE 999-C-S** REPEALING AND RE-ENACTING CHAPTER 5 OF TITLE 1 OF THE ANTIOCH MUNICIPAL CODE, DEALING WITH CITATIONS #701-02
- F. **RESOLUTION NO. 2002/138** APPROVING FINAL MAP AND IMPROVEMENT PLANS FOR MEADOW CREEK VILLAGE, UNIT 4, (WEST COAST HOME BUILDERS), TRACT NO. 7971 AND ANNEXING TO THE LONE TREE LIGHTING AND LANDSCAPING DISTRICT 9, ZONE 4, (PW 569-4) #802-02
- G. RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE REIMBURSEMENT AGREEMENT BETWEEN CITY OF ANTIOCH AND BLACK DIAMOND KNOLLS LTD. FOR THE CONSTRUCTION OF HANSEN PARK, TRACT 7515 (PW 599-P) (Con't to 9/24/02) #1402-03

- H. **RESOLUTION NO. 2002/139** APPROVING PLANS AND SPECIFICATION AND AUTHORIZING THE CITY CLERK TO ADVERTISE FOR BIDS FOR THE DOWNTOWN SANITARY SEWER TRUNK LINE REHABILITATION PHASE 1 (PW 514-S) #1205-01
- I. **RESOLUTION NO. 2002/140** APPROVING THE FILING OF THE APPLICATION FOR GRANT FUNDS FOR THE PER CAPITA GRANT PROGRAM UNDER THE SAFE NEIGHBORHOOD PARKS, CLEAN WATER, CLEAN AIR, AND COASTAL PROTECTION BOND ACT OF 2000 #412-01
- J. **RESOLUTION NO. 2002/141** AUTHORIZING CITY MANAGER TO FINALIZE NEGOTIATIONS WITH OCE-USA FOR PURCHASE OF LARGE FORMAT SCANNER COPIER AND PRINTER, AND WITH IKON OFFICE SYSTEMS FOR PURCHASE OF CORE IMAGING SYSTEM #106-01
- K. **RESOLUTION NO. 2002/142** AUTHORIZING CITY MANAGER TO FINALIZE NEGOTIATIONS WITH BI-TECH AND TO SIGN CONTRACT FOR REPLACEMENT OF FINANCE AND HUMAN RESOURCE SYSTEMS #106-01
- L. **RESOLUTION NO. 2002/143** ACCEPTING COMPLETED IMPROVEMENTS FOR DEERFIELD SUBDIVISION (PONDEROSA HOMES, INC.), UNIT 11, TRACT NO. 7282, AND AUTHORIZING THE MAYOR TO SIGN A DEFERRED IMPROVEMENTS AGREEMENT FOR LANDSCAPING IMPROVEMENTS (PW 487-11) #802-02
- M. LEGISLATION AND ADVOCACY #701-04
1. AB 2292 (Dutra) Preemption of local authority and property rights request for veto.
- N. **RESOLUTION NO. 2002/144** APPROVING REVISIONS TO THE CLASS SPECIFICATION FOR WATER TREATMENT MAINTENANCE WORKER I/II #502-02
- O. **RESOLUTION NO. 2002/145** AUTHORIZING A CORRECTION TO THE AMENDMENT TO CONTRACT BETWEEN THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND THE CITY COUNCIL OF THE CITY OF ANTIOCH #505-03

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

#### COUNCIL REGULAR AGENDA

6. ORAL PRESENTATION BY ASSEMBLYMAN CANCIAMILLA #701-01

Assemblyman Canciamilla announced there was an adopted state budget, which was completed in the total amount of \$98.9 billion, which included a \$1 billion reserve and made up a deficit of almost \$24 billion. He reported the deficit was made up primarily through fund transfers, fees and tax increases, and modifications to reserve accounts and cuts. He stated the budget reduction was difficult this year and next year there will be more pressure on counties, cities and school districts with the probable shift in costs to those jurisdictions. He presented the City Council with suggestions he has made regarding the budget process noting that he supports a 2-year budget without introducing any individual legislation for the first 9 months. He stated each committee would be spending that time in oversight and budget preparation to develop a more affective budget analysis.

Councilmember Simonsen thanked Assemblyman Canciamilla for the advanced copy of his legislative reform plan and noted his support of the proposal for no miscellaneous bills in the first 10 months of the Legislature. He urged Assemblyman Canciamilla to make a presentation to the East Bay division of the League of California Cities at the conference in Long Beach in October.

Councilmember Conley commended Assemblyman Canciamilla for his work on the budget and suggested the budget be passed prior to any other action of the Governor.

Councilmember Davis voiced his support of 2-year budgets and questioned whether 2-year budgets have been effective in other states.

Assemblyman Canciamilla reported there were seven other states with 2-year budget cycles with varying degrees of success due to exceptions built in to their fiscal only sessions.

Mayor Pro Tem Kalinowski declared a recess at 9:09 P.M. The meeting reconvened at 9:18 P.M. with all Councilmember present with the exception of Mayor Freitas who was excused.

**7. RESOLUTION SPECIFYING MINIMUM REQUIREMENTS FOR CITY PARTICIPATION IN IMPROVEMENTS TO COUNTY EAST MALL AND DIRECTING CITY ATTORNEY TO PREPARE AGREEMENT #901-05**

Acting City Manager Pappas Diaz presented the staff report dated September 10, 2002 recommending the City Council/Antioch Development Agency adopt the resolution of the City Council/Antioch Development Agency participation in improvements to County East Mall and directing the City Attorney/General Council to prepare an agreement. Further, the staff and subcommittee recommended the City Council/Agency utilize the payment method described in Resolution 2002/150, *page 2, Section e) i)* as because it would utilize available redevelopment funds, reduce the overall impact to the general fund, and provide an incentive for Macerich to demolish the Penny's building as soon as possible.

David Contis, Chief Operating Officer of Macerich Company, owners of County East Mall, thanked the City Council and staff for working with them in subcommittee and introduced members of his staff. He gave a brief overview of the plans to renovate County East Mall.

Janet Fisher reviewed the scope of work and details of the renovation project. She provided the estimated costs and timeline, projected increases in revenue to the City, sample renderings and a list of potential new tenants. Adding Macerich was supportive of a name change for the mall noting they would start the process following the meeting ensuring it was a participatory process with both the public and staff.

Councilmember Conley requested the name change reflect the heritage of the area. In response to Councilmember Conley, Mr. Contis stated their preference for funding this project was option 1. of the staff report, *The Redevelopment Agency would provide \$750,000 to Macerich Company following the demolition of the Penny's building. This fits within the criteria of elimination of blight and is available within the Agency's current funds. The other \$1.25 million would be provided from new sales tax revenue to the general fund following the completion of the fashion department store and would be paid in a 50/50 split.*

Following discussion the Council voiced their support for the project noting it would keep sales tax dollars within Antioch and benefit the community.

#### **RESOLUTION NO. 2002/150**

On motion by Councilmember Conley, seconded by Councilmember Davis the Councilmembers present unanimously adopted the resolution of the City Council/Antioch Development Agency participation in improvements to County East Mall and directed the City Attorney/General Council to prepare agreement stating the Agency would provide \$750,000 to Macerich upon the demolition of the J.C. Penney's building and \$1.25 million would be paid, starting upon completion of the new fashion department store, paid by the City in increments measured by new sales tax revenues and allocating a 50-50 split of such revenues between the City and Macerich.

Mayor Pro Tem Kalinowski adjourned to the Antioch Development Agency with all Agency members present with the exception of Mayor Freitas who was excused.

#### **AGENCY REGULAR AGENDA**

#### **10. RESOLUTION SPECIFYING MINIMUM REQUIREMENTS FOR AGENCY PARTICIPATION IN IMPROVEMENTS TO COUNTY EAST MALL AND DIRECTING GENERAL COUNSEL TO PREPARE AGREEMENT #901-05**

#### **RESOLUTION NO. ADA-382**

On motion by Agencymember Davis, seconded by Agencymember Conley, the Agencymembers present unanimously approved the resolution.

Agencymember Kalinowski declared a recess at 9:55 P.M. The City Council reconvened at 10:00 P.M. with all Councilmembers present with the exception of Mayor Freitas who was previously excused.

**8. RESOLUTION TO PARTICIPATE IN THE PREPARATION OF AN EAST CONTRA COSTA COUNTY HABITAT CONSERVATION PLAN #205-01**

Associate Planner Wehrmeister presented the staff report dated September 4, 2002 recommending the City of Antioch join the East Contra Costa County Habitat Conservation Association (HCPA) and participate in the habitat conservation plan effort undertaken by that group.

In response to Councilmember Simonsen, City Attorney Galstan clarified the agreement clearly stipulated only the land use authority cities had the ability to make land use authority decisions and reserved the right to withdraw both their membership and their property from the plan.

Councilmember Simonsen expressed concern the HCP could determine the EIRs were out of date and felt the land for the endangered species should be provided within Antioch. He stated he felt the purpose of the HCPA was to benefit the Contra Costa Water District and the expansion of Los Vaqueros reservoir. He voiced his support of Antioch representing the City at the meetings and sending letters as appropriate noting he did not support Antioch participating in the HCPA.

A motion by Councilmember Conley, seconded by Councilmember Simonsen to table this item failed by the following vote:

Ayes: Conley, Simonsen

Noes: Kalinowski, Davis

City Attorney Galstan clarified the HCP allowed a City or agency to relocate an endangered species once the issue had been studied and areas set aside for the preservation of those species either directly in your area or by purchasing suitable habitat land elsewhere. He noted staff felt the HCP would provide an insurance policy by making any future development areas financially feasible.

Councilmember Simonsen stated he felt the issues could be handled in house with current protocol.

Community Development Deputy Director Carniglia stated the HCP effort was underway and included the territory of Antioch, adding staff felt it would be advantageous to participate in the habitat conservation plan which would enable the City to take advantage of the provision to remove Antioch's area should they choose not to participate. In response to Councilmember Simonsen, Community Development Deputy Director Carniglia stated a preliminary review of the data being generated now by the JPA and Fish



and Wildlife indicates a conflict with the EIR and when the City develops FUA#1 it would have to be considered when the City received its core permits.

Mayor Pro Tem Kalinowski stated he felt the City should join the HCP to hear the issues and have representation on the HCP Executive Governing Committee.

Councilmember Conley stated he would not support speculation of future dollars from Antioch in an HCP when it was incumbent upon the developers to make the mitigation agreements.

A motion by Councilmember Davis, seconded by Councilmember Kalinowski recommending the City of Antioch join the East Contra County Habitat Conservation Association and participate in the habitat conservation plan effort undertaken by that group failed by the following vote:

Ayes: Kalinowski, Davis

Noes: Conley, Simonsen

Mayor Pro Tem Kalinowski requested staff bring back Council's direction in conjunction with the City Managers direction regarding sending a City representative to the HCPA meetings.

## **9. STUDY SESSION ON RULES RELATING TO BOARDS AND COMMISSIONS**

**#302-01**

City Attorney Galstan presented the staff report dated August 22, 2002 recommending the City Council: A) Conduct study session on draft ordinance and provide comments to staff; B) Refer draft ordinance to boards and commissions for review and comments, and; C) Continue further consideration of ordinance to October 22, 2002.

Councilmember Davis stated he felt the City should consider the State of California Intermittent Family Leave provisions and incorporate them into the Antioch ordinance. He stated he would not support the ordinance without illnesses for other family members being an excused absence.

Councilmember Simonsen stated he felt excused absences should include jury duty and attendance at approved conferences on behalf of the City. He requested Sec. 2-5.201 include an exception for the 2 positions on the Economic Development Commission held by the Antioch Chamber of Commerce and Antioch Rivertown Business Association due to the fact that some business owners do not live in Antioch. He suggested an exception in Sec 2.5.204 for Adhoc committees.

Councilmember Conley stated it was very difficult for the Commissions when a member missed several meetings and felt commitment to the Boards and Commissions as well as strict guidelines were important. He felt members should serve on only one Board or

Commission and the choice of which one to serve on should be made by the member within 60 days.

Mayor Pro Tem Kalinowski stated he felt spouses and family members were important and members might not have the ability to control the scheduling of their vacations. He noted there was a negative connotation with the term unexcused and recommended not using it when referring to absences. He further noted the 20% provision for absences affects the Board and Commissions differently depending on how frequently they met, and the urgency of the agenda items.

### **COUNCIL REPORTS/COMMUNICATIONS**

Councilmember Conley announced he had attended the Antioch Historical Society Bar-be-que, which was a successful event.

Mayor Pro Tem Kalinowski read a portion of a letter from Congresswoman Ellen Taucher regarding the September 11th anniversary. He announced that there will be a Luau fundraising event for the Antioch High School pool rebuilding at Delores Long's home on October 5, 2002 at 5:00 P.M. and provided a contact number for anyone wishing to purchase tickets.

### **STAFF COMMUNICATIONS**

Chief Moczulski announced there would be a Public Hearing regarding the Law Enforcement Block Grant on September 19, 2002 at the Antioch Police Department.

Councilmember Davis congratulated the Antioch Police Department for the successful arrest and conviction of Mr. Graham and the solving of the Angela Bougay case.

Acting City Manager Pappas-Diaz announced there was a joint meeting of the City Council and the Antioch School District at the Nick Rodriguez Community Center scheduled for September 26, 2002.

**PUBLIC COMMENTS** - None

### **CLOSED SESSION**

**1.) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION.** Initiation of litigation pursuant to Government Code §54956.9. One case.

### **ADJOURNMENT**

Mayor Pro Tem Kalinowski adjourned to the close session at 10:57 P.M. and announced the next regular scheduled City Council meeting would be on September 24, 2002 at 7:00 P.M.

Respectfully Submitted

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L. Jolene Martin, City Clerk