

**ANTIOCH CITY COUNCIL  
ANTIOCH DEVELOPMENT AGENCY**

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

**November 26, 2002  
Council Chambers**

Pursuant to Government Code Section §54952.2 the City Council Agenda for November 26, 2002 was posted on the door of the City Council Chambers, 3rd and "H" Streets on November 21, 2002.

**6:00 P.M. - CLOSED SESSION**

**1. PUBLIC EMPLOYMENT.** Title: City Manager. This closed session is authorized by Government Code §54957.

**2. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION.** City of Antioch v. Ulico Standard of America, et al., Contra Costa County Superior Court #C-00-03637. This closed session is authorized by Government Code §54956.9.

Mayor Freitas reported in regards to Public Employment during closed session the City Council took the following action by a 5-0 vote: 1) Extend the interim appointment to Linda Pappas Diaz until a permanent City Manager has been hired with salary and benefits to continue as they are currently; 2) Ms. Pappas Diaz's retains her rights to the Assistant City Manager position if she is not chosen as permanent City Manager; 3) The City will hire a recruiter for the City Manager position and Ms. Pappas Diaz is invited to apply for that position.

Mayor Freitas called the meeting to order at 7:12 P.M., and Deputy City Clerk Chalk 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.

**PROCLAMATIONS**

Holiday De-lites Celebration, December 7, 2002

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

Councilmember Kalinowski presented the proclamation proclaiming December 7, 2002 as "Holiday De-lites Celebration 2002" to Deputy Director of Leisure Services Wetmore who invited the community to attend the activities at Waldie Plaza beginning at 12:00 P.M. on

December 7, 2002.

Mayor Freitas announced this evenings meeting would be adjourned to a special meeting on December 3, 2002 at 6:00 P.M., followed by the Swearing-In Ceremony for Councilmembers Conley and Davis on December 10, 2002 at 7:00 P.M.

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

Barbara Sobalvarro, speaking on behalf of the Friends of Animal Services and animals of the Animal Shelter, stated there is an older dachshund at the Antioch Animal Shelter in need of a home and encouraged someone to adopt him. She announced the following schedule of events, Annual Thanksgiving Turkey Feast on November 30 at 11:00 A.M., at the Antioch Animal Shelter, Home for the Holidays Musical Celebration on December 1, 2002 at the Nick Rodriguez Theater and Winter Holiday Celebration on December 5, 2002 at the Antioch Animal Shelter. She reported that starting December 5, 2002, the Friends of Animal Services would be paying for the full cost of spaying or neutering of the first 10 cats and dogs adopted and provided a contact number for anyone wishing to receive additional information on the events.

### **PUBLIC COMMENTS**

Kim Hardister, representing the Academy of Arts and Ballet, introduced local dancers who will perform in the annual performance of the Theater Ballet of San Francisco's Nut Cracker on December 7, 2002 at 2:00 P.M. at the Pittsburg Creative Arts Building. She thanked supporters of the Theater Company and invited the public and City Council to attend the event. She provided tickets to the members of the City Council.

Mayor Freitas stated the ballet is a wonderful event and thanked Ms. Hardister, parents and volunteers for their support of the event.

Elvin Scott updated the community on his efforts to inform the public on pension benefits through his television program Battlefield Pensions. He provided a program schedule and announced additional information is available at the Antioch and Pittsburg libraries. He stated he would be requesting non-profit status.

Eric Hasseltine, speaking as the Treasurer of PROPAC, an Independent Political Action Commission stated he took full responsibility for Propac's actions during the recent campaign and personally, as well as on behalf of Propac, apologized to Reggie Moore, his family and supporters for any action that caused distress and may have offended them. He clarified the decision was made to disclose the information due to the fact that it was public record.

### **1. COUNCIL CONSENT CALENDAR**

A

**1-14-03**

- A. **APPROVAL OF COUNCIL MINUTES FOR OCTOBER 22, and NOVEMBER 12, 2002** #301-02
- B. **APPROVAL OF COUNCIL WARRANTS** #401-02
- C. **APPROVAL OF TREASURER'S REPORT - October 2002** #401-02
- D. **NELSON RANCH DEVELOPMENT AGREEMENT EXTENSION** #202-03
  - 1) Ordinance No. 1000-C-S approving first amendment to development agreement between City of Antioch and UCLD Properties, LLC. (Nelson Ranch); and
  - 2) Resolution No. 2002/174 expressing choice of alternative park site
- E. **ORDINANCE NO. 1001-C-S ADDING SECTION 4-5.1217.1 TO THE ANTIOCH MUNICIPAL CODE, DEALING WITH VENDORS NEAR SCHOOLS** #701-05
- F. **RESOLUTION NO. 2002/175 AMENDING THE 2002?03 BUDGET BY DELETING ONE METER SERVICE WORKER POSITION AND CLASSIFICATION AND REALLOCATING THE POSITION TO THE CLASSIFICATION OF PIPEFITTER I/II** #502-02
- G. **LEGISLATION AND ADVOCACY** #701-04
- H. **CONSIDERATION OF BIDS FOR THE DOWNTOWN SANITARY SEWER TRUNK LINE REHABILITATION (PW 514-2)** #1205-01
- I. **CONSIDERATION OF BIDS FOR THE WATER TREATMENT PLANT SEDIMENTATION BASINS (PW 246-22)** #1202-01
- J. **RESOLUTION NO. 2002/176 APPROVING THE PROPOSAL FOR CALTRANS BICYCLE TRANSPORTATION ACCOUNT, (BTA) GRANT APPLICATION** #1402-02

On motion by Councilmember Conley, seconded by Councilmember Davis, the Council unanimously approved the Council Consent Calendar with the exception of items A and G, which were removed for further discussion.

**Item A** - Councilmember Simonsen amended the minutes of November 12, 2002, page 9, paragraph 1, sentence 4 to read, "League of California Cities' Housing Community

Economic... "; and page 9, paragraph 1, sentence 5 to read, "East Bay Municipal Utilities District".

On motion by Councilmember Simonsen, seconded by Councilmember Conley, the minutes of October 22, 2002 were approved as presented and the minutes of November 12, 2002, were approved as amended.

**Item G** - Councilmember Simonsen reported at the East Bay Division of the League of California Cities' meeting they formulated an East Bay Division Legislative Focus Group to review legislation taking place in the Sacramento Assembly and State Senate, which would have impacts on the Bay Area region. He stated he forwarded an email to all Councilmembers and staff regarding SB910, noting previous action by the City Council opposed that bill and there is an attempt by Senator Dunn to resurrect it next month with a new version. He urged the Council to follow the actions of Senator Dunn regarding the bill and to be aware that it will not benefit any city in the state of California.

On motion by Councilmember Simonsen, seconded by Councilmember Conley, the Council unanimously received and filed item G.

## **COUNCIL REGULAR AGENDA**

### **2. RESOLUTION AMENDING ANTIOCH'S MASTER FEE SCHEDULE FOR WATER RATES AND CAPACITY CHARGES #409-01**

Director of Public Works Harrington introduced Acting Water Treatment Plant Superintendent Darone to the City Council and presented the staff report dated November 14, 2002, recommending the City Council adopt the resolution approving an amendment to the City of Antioch's 2002/03 Master Fee Schedule.

In response to Mayor Freitas, Bill Faisst, representing Brown and Caldwell, stated they used the model from the Public Utilities Commission and State of California which indicated the major impact on the electricity rates had already occurred and they would not be increasing substantially in the future.

Mayor Freitas expressed concern there was no escalator in the out years and the methodology for average costs understates the costs for replacing facilities particularly with the issue of regulatory requirements pertaining to seismicity.

Mr. Faisst clarified there was no extraordinary risk to Antioch due to the fact it does not sit on an earthquake fault and there is money maintained in the capital reserves for water main repairs in the event of a seismic event. In regards to regulatory requirements, he noted the City is regularly assessing possible needs for improvements. He stated the

study looks at replacement costs based on accurate information of the current costs in the water industry. He noted if the City wanted to maintain additional reserves they could raise the unit cost for water an additional \$0.10 per unit over the next decade, which would therefore accumulate \$9-10M in additional reserves.

Director of Public Works Harrington clarified the rate study recommended coming back to the City Council for reconsideration of the rates every 3 years.

In response to Mayor Freitas, Finance Director Tasker clarified there is only 8 years left on debt and it is a fairly insignificant amount of money.

Director of Public Works Harrington stated a benefit of partnering with the Contra Costa Water District is the fact that the debt service agreement is set up to take a proportion of the debt service from the connections and if there are no further connections, the remaining debt for the capacity is taken on at the burden of the district.

Mayor Freitas expressed concern the connection, annex and storage fees are combined noting that once they are combined, the transparency and accountability will be unclear.

Director of Public Works Harrington clarified the information that was used in developing the fees was not present and therefore it was better to consider the value of the entire system and develop one fee.

Mr. Faisst clarified the fee was determined by considering first principles to develop an overall cost to buy into the system.

Councilmember Conley stated the City needed a break down of the various components to the water usage fees on a continuing basis to indicate to the new homeowner their equity share of the replacement of the system.

Director of Public Works Harrington clarified the fees they are combining relate entirely to the capacity increase component of the City's water system and provides more flexibility for staff to manage the system.

Mr. Faisst added typically other utility districts combine the connection, annex and storage fees.

In response to Councilmember Conley, Director of Public Works Harrington stated the reserve account had allowed the City to buy down the increases in costs and stabilize the rates. He added every year they re-evaluate the fee structure through the master fee process.

**RESOLUTION NO. 2002/177**

On motion by Councilmember Kalinowski, seconded by Councilmember Simonsen, the Council adopted the resolution. The motion carried by the following vote:

Ayes: Davis, Kalinowski, Conley, Simonsen

Noes: Freitas

**3. RESOLUTION ADOPTING THE PROCEDURE GUIDE AND ALLOCATION EVALUATION RATING FORM FOR THE RESIDENTIAL DEVELOPMENT ALLOCATION PROGRAM #204-01**

Senior Planner Oshinsky presented the staff report dated November 21, 2002, recommending the City Council approve a resolution adopting the Procedure Guide and Allocation Evaluation Rating Form.

Councilmember Simonsen expressed concern the information provided does not indicate some of the land within Antioch is in Brentwood's School District and stated full mitigation needs to be clarified. He felt there were items in the ranking criteria description that should be base items. He recommended staff meet with the homebuilder's association members to determine if the ranking criteria is appropriate.

Guy Bjerke, representing the Home Builders Association, expressed concern the program was not consistent with the subdivision map act, the City's housing element as well as nexus requirements and noted SB50 prevents the City from requiring mitigation over and above what it requires. He suggested further consideration be given to the points allocated for affordable housing and projects located next to possible future transit stations and suggested that the affordable housing component include an in lieu fee. He voiced his support for a ranking system that tests every project against what they are able to provide and then evaluates them based on ranking.

Merle Gilliland, representing Richland Development Corporation, expressed concern it would be difficult to meet the minimum criteria for points with the nexus related to the ranking criteria. He expressed concern that once property is underway, there is a provision, which allows it to continue through buildout.

Dan Boatright, representing Castle Construction, expressed concern it would be difficult to meet the minimum point threshold to receive an allocation for a small infill project, noting many of the categories are not applicable. He requested a way to separate out infill projects or a process in which infill projects compete with like projects. He felt projects should compete on a per house basis. He stated if the City proceeds with the allocation process, he suggested the first project be allowed some flexibility so that the system can be refined and compressing the timeframe it takes to go through the schedule.

Nell Chadwick, Antioch resident, discussed the importance of responsible stewardship for Antioch's natural resources and voiced her support for the allocation system.

Kent Bickford spoke in support of the ranking criteria and encouraged the City Council to move forward.

Theresa Gallagher voiced her opposition to new development and stated the City should concentrate on improving the infrastructure.

In response to Councilmember Conley, Senior Planner Oshinsky clarified in general projects are going to be rated on a per unit basis.

Councilmember Conley suggested infill projects compete against like projects and augmenting the rating system.

Councilmember Kalinowski supported a minimum threshold for point ranking and noted he felt the subcommittee could be flexible in considering projects where the criteria does not apply. He supported moving forward with the Residential Development Allocation Program with subcommittee review of the program to determine if it works.

In response to Councilmember Simonsen, Senior Planner Oshinsky stated as part of the application process a map could be provided as a geographic overlay or delineation of where the areas for infill projects are located.

Councilmember Simonsen stated he would have liked to have been provided other cities' similar ordinances and procedures prior to approval of the program. He expressed concern the program pass the test of law or judicial review with regards to the subdivision map act, housing element and nexus requirements.

Mayor Freitas stated that the City's goal was to limit growth and provide quality projects, which are beneficial to the entire community. He noted going through the process will bring out some of the policy issues and he supported flexibility at the subcommittee level. He recommended accepting the allocation evaluation ranking program, opening the application period and evaluation of the applications. He stated he would make nominations to the subcommittee on December 10, 2002 and the committee would meet with members of the general public, developers and possibly individuals from the other jurisdictions to receive information and recommendations with regards to the process and procedure.

Following discussion the Council agreed to amend the resolution and ordinance to reflect that if a criteria is not applicable, the project should not be evaluated on it and therefore the total numbers would change in the evaluation process.

City Attorney Galstan stated he would amend the ordinance to reflect the Council's direction and if staff or the subcommittee finds legal issues with any of the criteria the committee would bring information back to the City Council for further revisions.

Mayor Freitas stated the intent was in February or March a comprehensive review of all the information will come back from the subcommittee and staff to the City Council so that it may be revisited.

Councilmember Kalinowski stated the City Council had been flexible in the assessments and application to development in the City as well as receptive to development extensions. He noted as the process moved forward he supported a team format.

**RESOLUTION NO. 2002/178**

On motion by Councilmember Simonsen, seconded by Councilmember Davis, the Council unanimously: 1) approved the resolution and ordinance with changes that provide flexibility to the residential development allocation committee; 2) the committee will be responsible for going through the process, looking at other jurisdictions that have gone through the process, legal review, and meet with all interested parties; 3) and come back to the City Council with regards to policy questions.

Mayor Freitas declared a recess at 9:36 P.M. The meeting reconvened at 9:50 P.M. with all Councilmembers present.

**4. RESOLUTION APPROVING THE AGREEMENT BY AND BETWEEN THE CITY OF ANTIOCH AND THE MACERICH PARTNERSHIP L.P. (COUNTY EAST MALL)  
#901-05**

City Attorney Galstan presented the staff report dated November 19, 2002, recommending the City Council adopt the resolution approving the agreement by and between the City of Antioch and the Macerich Partnership, L.P. and direct the Mayor to execute the agreement on behalf of the City.

Janet Fisher, representing Macerich, clarified sales at the Mervyn's Department Store in the Mall may decrease due to the new location opening up in the area and therefore they have requested Mervyn's be taken out of the sales tax equation completely.

City Attorney Galstan clarified the last page of the staff report was an old exhibit that should be discarded and noted the maintenance provisions are in the City agreement as paragraph 26.

Mayor Freitas felt it was a wonderful partnership and welcomed Macys to Eastern Contra Costa County.

Garry Holman, representing the Antioch Economic Development Commission, spoke in support of the resolution and commended the City Council on their professionalism.



**RESOLUTION NO. 2002/179**

On motion by Councilmember Kalinowski, seconded by Councilmember Davis, the Council unanimously approved the resolution.

**5. ANTIOCH WATER PARK - PROPOSED FEES AND SCHEDULE FOR THE 2003 SEASON #1402-03**

Deputy Director of Leisure Services Wetmore presented the staff report dated November 18, 2002, recommending the City Council approve the proposed fee and operating schedules for the Antioch Water Park during 2003. He recognized Recreation Supervisor Montoya and Recreation Specialist Sanderson for their organization of the programs.

Wayne Steffen, Chairperson of Parks and Recreation Commission, reported the Parks and Recreation Commission had reviewed the current and historical data provided by staff and recommended the City Council approve the proposed 2003 admission fees and park schedule as presented in the staff report. He noted the Commission did consider and does not support an option for a Mello Roos discount.

Councilmember Kalinowski and Mayor Freitas agreed they could not support the following motion without a discount applied to the daily rate for Mello Roos ratepayers.

On motion by Councilmember Simonsen, seconded by Councilmember Conley, the Council approved the proposed fee and operating schedule for the Antioch Water Park during 2003. The motion carried by the following vote:

Ayes: Davis, Conley, Simonsen

Noes: Kalinowski, Freitas

**6. DRAFT FRAMEWORK FOR AN OPEN SPACE PROTECTION AND ENHANCEMENT FUNDING MEASURE FOR CONTRA COSTA COUNTY #1402-03**

Deputy Director of Leisure Services Wetmore presented the staff report dated November 19, 2002, recommending the Council provide comments on the plan and the composition of the Advisory Committee.

Mayor Freitas spoke in opposition of the committee being composed of the entire Board of Supervisors, while only two members represent the Cities. He felt only 2 supervisors should be selected and the city representatives should be increased by 3 members.

John Kopchik, liaison for Contra Costa County Open Space Advisory Committee stated it is his understanding the Board of Supervisors would not sit on the committee but would nominate representatives from their districts and noted the composition of the committee

is modeled after most of the other advisory committees.

Discussion ensued regarding the composition of the board and administration cost for the program.

Following discussion the Council expressed concern regarding the governance issue and agreed one city representative per supervisorial district would be an enhancement and suggested with that change the Board of Supervisors could be removed from the committee.

Mr. Kopchik stated there would be further discussion on the plan and the composition of the Advisory Committee. He noted he would convey Council's comments to the Board of Supervisors and report back to the City Council.

Allen Payton, Antioch resident, questioned the timing, maintenance and funding of the parcel vote.

Mayor Freitas clarified it had been discussed a mail out election of the property owners would be in held in May of 2003 with every vote weighted.

Mr. Kopchik added the benefit assessment district is the preferred choice as a funding mechanism.

In response to Councilmember Simonsen, Mayor Freitas clarified it is a benefit assessment district so an engineer will spread the benefit per parcel of land so that if the County has property and there is no value or benefit, then there is no vote.

**7. RESOLUTION IN SUPPORT OF INCLUDING ANTIOCH FERRY SERVICE IN CITY TRANSPORTATION AND ECONOMIC DEVELOPMENT PLANNING**

**#1107-01**

Gary Holman, representing the Economic Development Commission, presented the staff report dated November 19, 2002, recommending the City Council adopt the resolution in support of including Antioch ferry service in city transportation and economic development planning.

Nordyn Anderson and Allen Payton, spoke in support of including Antioch ferry service in city transportation and economic planning. Mr. Payton requested the City pursue funding for the entire system and a terminal in Antioch.

Steve Morrison, Water Transit Authority, stated the Antioch service is one of the 7 new routes proposed based on ridership studies. He noted the proposed bridge toll increase is a major source of funding which does not include funding of the terminals. He further

noted if Antioch is interested in having ferry service and developing funding options, communicating their desires now is the timely thing to do. He discussed the positive impacts of water transit oriented development on economic development.

Mayor Freitas clarified that a \$1.00 bridge toll fair increase would be put to the vote of the people within the greater Bay Area. Mr. Morrison added the vote would probably occur in November of 2004 in the 7 counties that have state owned bridges.

In response to Councilmember Conley, Mr. Morrison clarified in the scale of projects and in the determination of the degree of nexus for each project, there was a feeling service in Antioch is a low priority. He encouraged the City of Antioch to advocate for the service and noted that all possibilities are being pursued with regards to funding sources.

Councilmember Kalinowski stated that while he supports the concept, he expressed concern regarding asking the voters of East County to support a bridge toll increase while ferry service to Antioch is not a viable option at the time.

Mr. Morrison felt the way to get votes in Eastern Contra Costa County was for the plan to indicate there is service for the area.

Mayor Freitas added that the discussions on the \$1.00 bridge toll need to be equitable with regards to other transportation issues.

**RESOLUTION NO. 2002/180**

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

Councilmember Simonsen requested the e-mail received regarding the agenda item be included as part of the minutes of the evenings meeting.

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

**AGENCY CONSENT CALENDAR**

- 8. RESOLUTION APPROVING THE AGREEMENT BY AND BETWEEN THE ANTIOCH DEVELOPMENT AGENCY AND MACERICH PARTNERSHIP, L.P. (COUNTY EAST MALL) #901-05**

City Attorney Galstan presented the staff report dated November 19, 2002, recommending the Agency adopt the resolution approving the agreement by and between the Antioch Development Agency and the Macerich Partnership, L.P. and direct the Chairman to

execute the agreement on behalf of the Board.

**RESOLUTION NO. ADA/383**

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

**9. APPROVAL OF AGENCY WARRANTS**

**#401-02**

Agency Member Simonsen requested an update from Acting City Manager Pappas Diaz on status of the Cranmer Properties Inc. project on East 18th Street.

On motion by Agency Member Kalinowski, seconded by Agency Member Conley, the Agency unanimously approved the Agency Warrants.

**10. RESOLUTION APPROVING ALLOCATION OF HOUSING SET-ASIDE FUNDS AND RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CITY CLERK TO ADVERTISE FOR BIDS FOR STREETScape IMPROVEMENTS FOR THE WEST RIVERTOWN APARTMENTS AT FOURTH AND "J" STREETS (PW 648)**

**#1102-04**

Director of Community Development Brandt presented the staff report dated November 12, 2002 recommending the Agency adopt the resolution approving the allocation of \$125,000 in Housing Set-Aside funds for streetscape improvements at the West Rivertown Apartment project and authorizing the Clerk to advertise for bids for construction of those improvements.

Mayor Freitas stated he felt all efforts should be made to recoup the dollars for reimbursement back to the agency.

Director of Community Development Brandt stated the under grounding was going well and they should be able to repay most if not all of the debt.

**RESOLUTION NO. ADA-384**  
**RESOLUTION NO. ADA-385**

On motion by Agency Member Conley, seconded by Agency Member Kalinowski, the Agency approved the resolutions.

Chairperson Freitas adjourned to the Antioch City Council.

**PUBLIC COMMENTS**

Debra Dishler provided written comment regarding traffic concerns in her neighborhood.

Mayor Freitas referred the matter to the City Engineer / Director of Community Development Brandt for discussion with the resident.

### **COUNCIL REPORTS/COMMUNICATIONS**

Councilmember Simonsen reported he has been appointed to the League of California Cities' Housing Community Development Policy Committee. He thanked staff for the Lone Tree Way and Putnum Street improvements.

Mayor Freitas thanked Councilmember Simonsen for representing Antioch at the League of California Cities.

### **STAFF COMMUNICATIONS**

Acting City Manager Pappas Diaz reported she had been in contact with the Pittsburg City Manager who had requested the meeting between Antioch and Pittsburg City Council's be held early in 2003. She stated she would begin discussions and schedule the meeting at a future time.

Mayor Freitas stated he would be attending the Pittsburg City Council Swearing In Ceremony and addressing the Council with a request for a joint meeting.

### **ADJOURNMENT**

With no further business, Mayor Freitas adjourned the meeting at 11:27 P.M., to the next special meeting on December 3, 2002 at 6:00 P.M. He wished everyone a wonderful Thanksgiving.

Respectfully Submitted

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JANET CHALK, Deputy City Clerk