

**ANTIOCH CITY COUNCIL
ANTIOCH DEVELOPMENT AGENCY
PUBLIC FINANCING AUTHORITY**

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

**January 11, 2005
Council Chambers**

6:30 P.M. - CLOSED SESSION

1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION. Evaluation for City Manager. This Closed Session is authorized by Government Code '54957.

Mayor Freitas called the meeting to order at 7:15 P.M., and announced there was no reportable action from Closed Session. City Clerk Martin called the roll.

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

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Devi Lanphere, Antioch Chamber of Commerce CEO, announced their Inaugural Gala would be held on January 21, 2005 at Lone Tree Golf Course beginning at 6:00 P.M. Secondly, the Chamber was accepting registrations for the East County Women's Conference, to be held on April 1, 2005.

PUBLIC COMMENTS

Devi Lamphere, representing the Antioch Chamber of Commerce, reported the Small Business Information Center was close to completion and encouraged all businesses to participate. She stated she had forms with her for the public, or go to the Chamber's website.

Douglas Tokes, Antioch resident, suggested the City consider the potential increase in revenue from property taxes prior to considering long-term bonds for local road repairs. He encouraged the Council and community to contact their representatives and voice their opposition to changes for Social Security.

Mayor Freitas announced the Mayor's Prayer Breakfast would be held on March 18, 2005 at 7:00 A.M. at Humphrey's on the Delta, and encouraged those interested to attend.

PROCLAMATIONS

National Volunteer Blood Donor Month, January 2005

On motion by Councilmember Conley, seconded by Councilmember Kalinowski the Council

unanimously approved the proclamation.

Councilmember Kalinowski presented the proclamation proclaiming January 2005 as *National Volunteer Blood Donor Month* to Phil Bureau who accepted the proclamation on behalf of the Red Cross, hospitals, patients and their families. He provided a contact number for citizens interested in receiving additional information.

In response to Councilmember Simonsen, Mr. Bureau reported the prohibition on donations from residents of the United Kingdom was still in effect and when it was lifted he would be informing the Council.

ANNOUNCEMENTS OF BOARD AND COMMISSION OPENINGS- None

1. COUNCIL CONSENT CALENDAR

- A. APPROVAL OF COUNCIL MINUTES FOR NOVEMBER 23, 2004 #301-02**
- B. APPROVAL OF COUNCIL WARRANTS#401-02**
- C. REJECTION OF CLAIM#704-07**
 - 1. Susan Lena by State Farm Insurance #04/05-1518**
- D. LEGISLATION AND ADVOCACY#701-04**
- E. RESOLUTION NO. 2005/01 AUTHORIZING THE DIRECTOR OF COMMUNITY DEVELOPMENT TO SIGN THE SAFE ROUTES TO SCHOOL-FOURTH CYCLE 2003/2004 STATE MASTER AGREEMENT #1104-02**
- F. CONSIDERATION OF BIDS FOR THE BUCHANAN ROAD PAVEMENT REHABILITATION (PW 392-22)#1102-04**
- G. RESOLUTION IMPLEMENTING THE PUBLIC AGENCY RETIREMENT SERVICES SEPARATION INCENTIVE PLAN (SIP)..... #505-03**
- H. RESOLUTION NO. 2005/02 APPROVING JOINT EXERCISE OF POWERS AGREEMENT FOR THE MUNICIPAL POOLING AUTHORITY..... #704-01**

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

Item C- Douglas Tokes, Antioch resident stated Susan Lena was a personal friend and he felt the denial of her claim should be re-considered by the City Council.

On motion by Councilmember Conley, seconded by Councilmember Simonsen the City Council unanimously denied item C.

Item G - Mayor Freitas pulled the item and requested it be continued to February directing staff to provide more information regarding the financial consideration, examples, constraints and the ability for employees to separate from service without retiring. Councilmember Kalinowski requested the item be placed on the regular agenda item when it returned.

On motion by Councilmember Simonsen, seconded by Councilmember Conley, the City Council unanimously held this item over and requested it be agendized on the regular agenda.

Item H - In response to Mayor Freitas, City Attorney Galstan clarified buy-in costs were determined administratively and he would provide written protocol to the City Council.

On motion by Councilmember Kalinowski, seconded by Councilmember Conley, the City Council unanimously approved item H.

PUBLIC HEARINGS

- 2. THE CITY COUNCIL WILL CONSIDER A REQUEST TO AMEND THE ENVIRONMENTAL HAZARDS SECTION OF THE GENERAL PLAN TO MODIFY THE MAXIMUM ALLOWABLE EXTERIOR NOISE LEVEL FOR SINGLE FAMILY AND MULTIPLE FAMILY RESIDENTIAL UNITS LOCATED ADJACENT TO EXISTING AND PLANNED FREEWAYS. THE CURRENT STANDARD IS 60 CNEL AND THE PROPOSED STANDARD IS 65 CNEL. A CORRESPONDING CHANGE IS ALSO PROPOSED TO THE ZONING ORDINANCE**
..... (Z-04-04) #202-05

At the request of staff, the item was continued to January 25, 2005.

- 3. ALMONDRIDGE EAST / MCBAIL COMPANY REQUESTS APPROVAL OF THE FINAL PLANNED DEVELOPMENT AND ASSOCIATED AMENDMENT OF THE PLANNED DEVELOPMENT ZONING DISTRICT, TENTATIVE MAP, AND USE PERMIT, TO ALLOW THE CONSTRUCTION OF 102 SINGLE FAMILY HOMES ON APPROXIMATELY 21.5 ACRES LOCATED APPROXIMATELY 700 FEET SOUTH OF EAST 18TH STREET AND EAST OF PHILLIPS LANE (APN 051-200-015 AND 051-200-053) (PD-04-14)#202-03**

Associate Planner Albro presented the staff report dated January 3, 2005 recommending the City Council approve the Final Planned Development and associated amendment of the Planned Development Zoning District, Vesting Tentative Map, and Use Permit, and adopt the Mitigated Negative Declaration.

Mayor Freitas opened the Public Hearing.

PROPONANT

Mark Hughes, representing KB Homes, stated they were in agreement with the staff report and felt they had responded to staff's concerns. He reviewed the project site plan and community enhancements provided by their proposal.

GENERAL

Mayor Freitas read into the record written comments provided by David Orona, requesting the applicant accommodate the current homeowners bordering the project by building single story homes adjacent to their properties. He questioned how the project would impact their sewer and water services.

Associate Planner Albro stated the project would not result in any benefit to the existing homeowners regarding their water and sewer services.

Mr. Hughes stated they would work with Mr. Orona to determine whether or not the City would be able to honor his requests.

With no further speakers, Mayor Freitas closed the Public Hearing.

A motion by Councilmember Conley, seconded by Councilmember Simonsen to recommend approval of the Final Planned Development and associated amendments of the Planned Development Zoning District, Vesting Tentative Map, and Use Permit, and adopt the Mitigated Negative Declaration resulted in no action.

Ayes: Davis, Simonsen

Noes: Freitas, Kalinowski

Abstain: Conley

Councilmember Conley reported the transportation bill for \$140M in Federal funding would be voted on in May and although he was in favor of the project he could not support an approval until the Highway 4 was fully funded.

Councilmember Simonsen questioned the wisdom of holding the project on the basis of Highway 4 funding. He noted KB Homes had been actively lobbying in Washington D.C on behalf of the City of Antioch on the Transportation Equity Act Reauthorization and Funding under the mega projects.

Councilmember Conley stated he felt it was important the Chairman of the Committee clearly understood the City of Antioch was willing to stop residential growth until Highway 4 was fully funded.

In response to Mayor Freitas, Mr. Hughes reported they were attempting to secure \$140M in transportation funds by hiring a lobbyist to advocate on behalf of East County and they had led the effort with other builders in the region by forming a coalition. He added their priority was to ensure Measure J was approved to provide \$120M in funding for transportation improvements. Based on their efforts he was requesting the City Council move forward and approve their project.

City Attorney Galstan noted Council's previous vote was a "no action vote." He recommended the item be brought back to the City Council in 60-90 days to see if there was a change in the vote or findings could be prepared for the record.

Councilmember Kalinowski stated he could not support the project until the infrastructure issues were addressed. He expressed concern the proposed project lacked vision and the development plan was insufficient.

City Attorney Galstan recommended the item be continued to March to determine whether or not the City Council was prepared to adopt findings.

Councilmember Simonsen stated his understanding of Robert's Rules of Order was that a 2-2 vote kills the item therefore he would suggest a motion to reconsider the item followed by a vote to continue it.

In response to Councilmember Simonsen, City Attorney Galstan clarified, by ordinance, three votes were necessary for action and if the vote tied, the item would be continued to the next meeting.

Mayor Freitas stated he would support the motion, as the content mirrored his position, and questioned whether any Councilmember could request an item be agendaized for reconsideration.

On motion by Councilmember Simonsen, seconded by Councilmember Davis, the City Council moved for reconsideration of agenda item #3. The motion carried by the following vote:

Ayes: Freitas, Davis, Simonsen

Noes: Conley, Kalinowski

City Attorney Galstan clarified the passing of the motion would result in a noticed Public Hearing.

On motion by Councilmember Simonsen, seconded by Councilmember Davis the City Council continued item #3. The motion carried by the following vote:

Ayes: Freitas, Davis, Simonsen

Noes: Conley, Kalinowski

Mayor Freitas declared a recess at 8:11 P.M. The meeting reconvened at 8:27 P.M. with all Councilmembers present.

4. RESOLUTION ESTABLISHING UNDERGROUND UTILITY DISTRICT NO. 19 ON "L" STREET BETWEEN WEST TENTH STREET AND WEST FOURTH STREET (PW 300-19)#1201-07

Community Development Director Brandt presented the staff report dated December 20,

2004 recommending the City Council adopt the resolution establishing Underground Utility District No. 19 on "L" Street between West Tenth Street and West Fourth Street.

Mayor Freitas opened the public hearing.

Mayor Freitas read written comment from Mr. Sadruddin requesting the City or Utility Company pay all costs to convert the overhead utility and requested the work not interrupt his existing tenant.

With no further speakers, Mayor Freitas closed the public hearing.

Councilmember Simonsen stated he appreciated the concerns of Mr. Sadruddin regarding his property although he felt the resolution should be limited to residential units.

RESOLUTION NO. 2005/03

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

5. FREDERICK LAMB (ASHLEIGH ESTATES) REQUESTS APPROVAL OF A TENTATIVE MAP TO SUBDIVIDE AN APPROXIMATELY 3 ACRE PARCEL INTO 12 LOTS. THE APPLICANT INTENDS TO CONSTRUCT SINGLE FAMILY HOMES ON EACH OF THE 12 LOTS, LOCATED ON THE SOUTH SIDE OF WORRELL ROAD, APPROXIMATELY 215 FEET EAST OF LONE TREE WAY (APN 071-072-015) (PW 672)..... #802-02

Senior Planner Wehrmeister presented the staff report dated January 7, 2005 recommending the City Council adopt the resolution approving a Tentative Map creating a 12 lot residential subdivision, subject to conditions of approval.

Mayor Freitas opened the public hearing.

Bill Wood, Project Architect, reviewed the project site plan for the City Council. He reported the project engineer and landscape architect were available to answer any questions.

Mayor Freitas reported he had received written comment from Rose Cardinale who had indicated the resident at 2908 Carolyn Court had built a pipe and it was draining to the property she would receive with the lot line adjustment. She requested assistance in asking the homeowner to redirect the afore mentioned drain to the street.

Senior Planner Wehrmeister stated staff would look into redirecting the drainage pipe. Mr. Wood offered to assist Ms. Cardinale resolve the issue.

Mayor Freitas closed the public hearing.

Councilmember Kalinowski voiced his support of the infill project for 12 lots with minimum lot

sizes of approximately 6000 sq. ft. noting it met the vision of the City and was a high quality product.

RESOLUTION NO. 2005/04

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

COUNCIL REGULAR AGENDA

6. INTRODUCTION OF PROPOSED NEW AUDITING FIRM AND APPROVAL OF PROPOSAL.....#402-01

Finance Director Tasker presented the staff report dated January 5, 2005 recommending: A) Council meet the representatives of Caporicci & Larson, and; B) Motion to approve sealed dollar cost bid proposal.

Nasi Raissian, Partner in charge of the audit and Ahmed Badawi, Senior Manager stated they look forward to the audit and a good relationship with the City of Antioch.

On motion by Councilmember Conley, seconded by Councilmember Simonsen, the City Council unanimously met representatives of Caporicci & Larson and approved sealed dollar cost bid proposal.

7. CITY OF ANTIOCH - COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2004 AND REPORT TO MANAGEMENT FOR THE FISCAL YEAR ENDED JUNE 30, 2004 (MANAGEMENT LETTER).....#402-02

Finance Director Tasker presented the staff report dated December 17, 2004 recommending the City Council receive and file the Comprehensive Annual Financial Report For The Fiscal Year Ended June 30, 2004 and the Report to Management For The Fiscal Year Ended June 30, 2004.

In response to Mayor Freitas, Finance Director Tasker reported the City had a clean audit.

In response to Councilmember Kalinowski, Finance Director Tasker clarified the City had a loan for Lowes and the money was borrowed from the compensated absences fund. He reported they were now transferring the payment portion back into compensated absences and he would provide the details at the mid-year budget review.

Councilmember Kalinowski requested the City Manager revisit the policy issue regarding department budget overruns without City Council authorization during the mid-year budget review.

On motion by Councilmember Kalinowski, seconded by Councilmember Conley the City

Council unanimously received and filed the Comprehensive Annual Financial Report For The Fiscal Year Ended June 30, 2004 and the Report to Management For The Fiscal Year Ended June 30, 2004.

Mayor Freitas thanked the Auditors.

8. RESOLUTION IMPLEMENTING A TEMPORARY INCREASE IN THE MEDICAL AFTER RETIREMENT PLAN CAPS.....#505-01

Personnel Director Brock-Cohn presented the staff report dated January 11, 2005 recommending the City Council adopt the resolution.

Mayor Freitas stated if the resolution was adopted he wanted the City to be very clear with the retirees it was a temporary gap and the City was performing the audit.

Councilmember Simonsen expressed concern the data had not been provided indicating the cap increases were valid. He questioned where the money would be coming from and how the City Council would address the issue so there would be no impact on the budget. He stated if the actuarial was completed he did not know what would preclude the City Council from making it retroactive to January 1, 2005. He requested when reports were received by the City Council, they include information from the Finance Director regarding the fiscal impacts.

Personnel Director Brock-Cohn stated retirees were paid based on the most populated plans by active employees up to whatever cap was set and this was the first year the cap had been exceeded by most of the retirees due to the increase in the cost of premiums. She noted the recommendation was to increase the cap amount for single and employee +1 by the amount the most populated plan was over the cap.

In response to Councilmember Simonsen, Personnel Director Brock-Cohn stated it would be acceptable not to act on a temporary increase and wait until the actuarial was completed and make the increase retroactive to January 1, 2005.

In response to Councilmember Kalinowski, Ms. Brock-Cohn stated during her career she had never seen enhancements to benefits received by employee organizations outside the MOU or negotiation process.

Councilmember Kalinowski stated he understood why the issue needed to be resolved temporarily although he felt the City Council needed to revisit the issue promptly as he felt the City should not revisit enhancements to any contract unless the contract had expired or the employee organization was willing to open the contract up for renegotiations. He questioned how policy should be set moving forward to correct the issue.

Ms. Brock-Cohn stated she would need to research the process of reentering the negotiation process. She clarified there was the ability to negotiate side letters when an MOU was in

place, however it was limited with monetary or significant changes in labor practices generally requiring City Council authorization.

City Attorney Galstan added the documents related to the Medical After Retirement was an ongoing vested retirement program and could only be changed by mutual consent of the employees and City Council. He noted the City was contractually obligated to do the actuarial study, however what was done with the study was based on meet and confer obligations between the City and the groups.

Finance Director Tasker clarified the actuarial had been completed although the actuary had requested additional information related to demographics and turnover. He stated there would eventually be liability to the General Fund if the City continued to fund the cap.

A motion was made by Councilmember Conley, seconded by Councilmember Kalinowski to adopt the resolution implementing a *temporary* increase in the medical after retirement plan caps in the amount not to exceed \$18k.

Councilmember Kalinowski stated he would support the motion provided a resolution was brought back to the City Council clearly delineating future enhancements would occur only during contract negotiations and funds expended in the cycle be funded from employee contributions of the employees with no liability to the General Fund.

In response to Councilmember Simonsen, Finance Director Tasker clarified the funds were paid for out of the city employer paid money in the General Fund.

Councilmember Kalinowski pulled his second.

RESOLUTION NO. 2005/05

On motion by Councilmember Conley, seconded by Councilmember Davis the City Council members present adopted the resolution implementing a temporary increase in the medical after retirement plan caps in the amount not to exceed \$18k. The motion carried by the following vote:

Ayes: Freitas, Davis, Conley

Noes: Kalinowski, Simonsen

9. APPOINTMENT TO DOWNTOWN REDEVELOPMENT/WATERFRONT COMMITTEE
.....#302-01

Councilmember Conley stated due to the importance of Downtown Redevelopment he was requesting the subcommittee be dissolved and the City Council meet as a whole in during Work/Study Sessions to discuss the issue.

Councilmember Kalinowski agreed with Councilmember Conley stating he was willing to participate in monthly Study Sessions to discuss the Downtown Redevelopment Waterfront

Plan.

Councilmember Simonsen stated he felt the subcommittee process worked very well.

Councilmember Davis stated he would like to participate in the process in either the subcommittee or with the City Council as a whole.

Mayor Freitas stated if the City Council met as a whole, the screening process would become a public matter and could prevent open discussion, which he did not feel would be in the best interest of the City.

City Attorney Galstan stated there could be aspects of the screening process that would be confidential and could be subject to Closed Session review.

Following discussion the City Council consensus agreed to hold the discussion of the item until direction from the Council on item #12 of the agenda.

Mayor Freitas adjourned to the Antioch Public Financing Authority with all Authority Members present.

ANTIOCH PUBLIC FINANCING AUTHORITY

10. ANTIOCH PUBLIC FINANCING AUTHORITY - INDEPENDENT AUDITOR'S REPORTS, MANAGEMENT'S DISCUSSION AND ANALYSIS, BASIC FINANCIAL STATEMENTS AND SUPPLEMENTAL INFORMATION FOR THE FISCAL YEAR ENDED JUNE 30, 2004

.....#402-02

On motion by Authority Member Conley, seconded by Authority Member Kalinowski the Public Financing Authority unanimously received and filed the Antioch Public Financing Authority Independent Auditor's Reports, Management's Discussion and Analysis, Basic Financial Statements and Supplemental Information for the Fiscal Year Ended June 30, 2004

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

ANTIOCH DEVELOPMENT AGENCY

11. ANTIOCH DEVELOPMENT AGENCY - INDEPENDENT AUDITOR'S REPORTS, MANAGEMENT'S DISCUSSION AND ANALYSIS, BASIC FINANCIAL STATEMENTS, AND REQUIRED SUPPLEMENTARY INFORMATION FOR THE FISCAL YEAR ENDED JUNE 30, 2004#402-02

On motion by the Agency Member Conley, seconded by Agency Member Kalinowski the Antioch Development Agency unanimously received and filed the Antioch Development

Agency Independent Auditor's Reports, Management's Discussion and Analysis, Basic Financial Statements, and Required Supplementary Information For The Fiscal Year Ended June 30, 2004.

12. INITIATION OF DOWNTOWN RIVERTOWN WATERFRONT DEVELOPMENT PROCESS AND REQUEST FOR QUALIFICATIONS (RFQ)#902-06

Assistant City Manager Pappas Diaz presented the staff report dated January 4, 2005 recommending the Agency approve the Request for Qualification (RFQ) document for issuance to begin the RFQ/RFP process for the downtown development of the Rivertown Waterfront of the City/Agency.

Following review of the Waterfront Request for Qualification the Antioch Development Agency made the following revisions:

- Page 1, paragraph 1, changing "more developers" to "a consortium of developers" (and carry the language throughout the document)
- Page 1, paragraph 3, deleting passive when referencing recreational activities
- Page 1, paragraph 3, deleting reference to Rivertown Arts Center
- Page 1, paragraph 3, adding a sentence indicating that the developer's concepts could be equally viable
- Page 3, paragraph 2, deleting "on the Showboat block" and replacing it with "downtown"
- Page 3, Correct spelling of El Campinil to El Campanil and delete "restoration project"
- Page 6, Change date from January 12, 2005
- Page 6, Change Selection Committee to Agency review
- Page 6, Request for staff to re-evaluate the Timeline
- Exhibit B, Improve the readability of the map
- Exhibit C, page C-2, remove non-profit developer
- Exhibit C, page C-2 correct spelling of "side" to "site"

Agency Chairperson Freitas discussed the importance of firms to outline phasing with their proposals.

Garry Holman, Economic Development Commission, urged the Agency to unanimously approve the RFQ document. He stated he believed the timing was critical to the downtown development and a vibrant rivertown. He noted he reviewed the draft document and with the proposed changes discussed during the current meeting, he felt it was fundamentally sound.

Mayor Freitas stated he was not adverse to extending the RFQ to quality firms from out of state.

On motion by Agency Member Conley, seconded by Agency Member Kalinowski the Agency unanimously approved the RFQ document #302-03 with the changes as outlined above and constituting the Agency as a whole.

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

9. APPOINTMENT TO DOWNTOWN REDEVELOPMENT/WATERFRONT COMMITTEE

..... (#302-01)

As a result of the previous direction, no action was taken on the item.

PUBLIC COMMENTS - None

STAFF COMMUNICATIONS

City Manager Jakel reminded the community of a joint meeting of the Antioch Unified School District and City Council on January 18, 2005. He stated at this time staff was contemplating dedicating a February 15, 2005 Study Session to Traffic Calming, March 15, 2005 Study Session to the RFQ Selection of Finalist and the April 19, 2005 Study Session for the 05-06 Budget.

COUNCIL COMMUNICATIONS

Councilmember Conley expressed concern that Comcast was advertising products that were not available in Antioch and if the agreement had not been signed he would like the subcommittee re-established to begin negotiating for services.

Councilmember Simonsen announced the City Council was invited to attend the East Bay Division League of California Cities meeting at Ruth Chris Steak House in Walnut Creek at 7:00 P.M.

Councilmember Davis requested the City Council's consideration to re-establishing the Antioch Multicultural Foundation.

Mayor Freitas requested staff find out the status of the Multicultural foundation.

Councilmember Davis stated that due to the amount of calls and letters he has received regarding the Minor League Ballpark, he was requesting the item be agendized in February.

Mayor Freitas announced the Mayor's Conference was held on January 6, 2005 and he reported Councilmember Simonsen was unanimously selected as their nominee for membership on Delta Protection Agency. He stated on his behalf, he would be writing a letter of support for his appointment, which was handled by ABAG.

Mayor Freitas expressed his sympathy that Steve Jones recently passed away noting he was an outstanding contributing member of the community. He thanked the City Council members for attending the memorial service. He announced the school had set up a scholarship fund and anyone interested could contact himself or City Hall for additional information.

With no further business, Mayor Freitas adjourned the meeting in honor of Steven Jones at 10:42 P.M. to the next regular Council meeting on January 25, 2005.

Respectfully submitted:

L. JOLENE MARTIN, CMC, City Clerk