

## ANTIOCH CITY COUNCIL

Regular Meeting  
7:00 P.M.

June 13, 2006  
Council Chambers

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

1. **CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION** Initiation of litigation. This Closed Session is authorized by Government Code §54956.9 (c). (1 potential case)

Mayor Freitas called the meeting to order at 7:06 P.M., and City Clerk Martin called the roll.

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

Mayor Freitas announced Councilmember Davis was making a presentation at Prospect High School and would be arriving shortly. He reported the City Council had been in Closed Session; there was no reportable action.

### PLEDGE OF ALLEGIANCE

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

### PROCLAMATIONS

Flag Day, June 14, 2006

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

Mayor Freitas announced Mr. Joe Marks would be receiving the proclamation.

### ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Devi Lanphere, representing the Antioch Chamber of Commerce, announced a Proposition Forum would be held on June 19, 2006 from 7:00 – 8:00 P.M. in the Council Chambers. She invited the community to participate and provided contact information for anyone wishing to receive additional information.

### PUBLIC COMMENTS

David Yount, Antioch resident, reported the City of Brentwood had passed an ordinance regarding the storage and parking of vehicles. He provided the City Council with a copy of the ordinance and suggested Antioch consider passing a similar ordinance to reduce parking impacts in neighborhoods.

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**7/25/06**

Kimber Gallagher, Antioch resident, spoke to incidents involving after school fights occurring on Forty Niner Way and questioned what had been done at the City level to address after school programs for teens, increased crime and questioned whether or not the ratio of police to citizens was sufficient.

Mayor Freitas stated Chief Moczulski was available and asked the Chief to meet and respond to Mr. Gallagher's inquiries.

Ken Lee, Antioch resident, stated he felt the EIR for the WalMart expansion did not address all the impacts and questioned if there would be an ordinance to restrict the use of streamers.

Emil Stein, Antioch resident, spoke to a banner hung from signal light posts on Memorial Day weekend and questioned why the individual involved was not fined. He asked if Mayor Freitas had participated in Ethics training.

Mayor Freitas stated the deadline for ethics training was December 31, 2006.

Kathy Nunez, Antioch resident, requested information regarding the process and timeline for the City taking over Section 8 Housing.

Mayor Freitas encouraged Ms. Nunez to contact the City Manager's office with regards to this issue.

City Manager Jakel reported this issue should be returning to the City Council in the fall for action. He further stated Contra Costa Housing Authority had opened an office in Antioch to provide immediate relief. He indicated he would inform Ms. Nunez of the committee meeting dates, which would be open to the public.

**1. COUNCIL CONSENT CALENDAR**

- A. APPROVAL OF COUNCIL MINUTES FOR APRIL 25 and MAY 9 and 23, 2006 #301-02**
- B. APPROVAL OF COUNCIL WARRANTS #401-02**
- C. LEGISLATION AND ADVOCACY #701-04**
  - 1. AB 2987 (Nunez/Levine) Cable and Video Service - OPPOSE (*no action*)**
- D. ORDINANCE 1069-C-S ADDING CHAPTER 13 OF TITLE 3 AND AMENDING SECTION 3-5.312 OF THE ANTIOCH MUNICIPAL CODE, REGARDING CLAIMS AGAINST THE CITY #701-05**
- E. ORDINANCE 1070-C-S RESCINDING AND RE-ENACTING TITLE 9, CHAPTER 5, ARTICLE 31 OF THE ANTIOCH MUNICIPAL CODE, DEALING WITH RESIDENTIAL CONDOMINIUM CONVERSIONS #202-05**
- F. RESOLUTION NO. 2006/63 APPROVING WIRELESS SITE LEASE WITH CINGULAR WIRELESS, JAMES DONLON BOULEVARD/RIO GRANDE DRIVE SITE #1001-05**
- G. CONSIDERATION OF BIDS FOR THE JAMES DONLON BOULEVARD PAVEMENT#1102-04**
- H. RESOLUTION NO. 2006/64 ANNOUNCING INTENTION TO VACATE A PORTION OF MEDANOS STREET RIGHT-OF-WAY BETWEEN LOMA LANE & WEST TENTH STREET AND SETTING A PUBLIC HEARING #1102-04**
- I. RESOLUTION NO. 2006/65, 2006/66, 2006/67 APPROVING BOUNDARY MAP, RESOLUTION INITIATING PROCEEDINGS FOR LANDSCAPING AND LIGHTING DISTRICT FORMATION AND LEVY OF ASSESSMENTS FOR FISCAL YEAR 2006-2007, AND RESOLUTION OF INTENTION PRELIMINARILY APPROVING ENGINEER'S**

**REPORT AND SETTING DATE FOR PUBLIC HEARING TO FORM THE BLACK DIAMOND RANCH LANDSCAPE, LIGHTING AND PARK MAINTENANCE DISTRICT 2A, ZONE 10, LOCATED NORTH OF BUCHANAN ROAD, WEST OF SOMERSVILLE ROAD AND NORTH AND SOUTH OF JAMES DONLON BLVD (PW 500) #806-03**

- J. APPROVAL OF LETTER FOR THE MAYOR'S SIGNATURE TO THE WATER TRANSIT AUTHORITY STATING ANTIOCH'S INTEREST IN PLANNING FOR A FERRY TERMINAL IN ANTIOCH, AND TO EXPLORE THE INITIATION OF WATER #1107-01**
- K. RESPONDING TO QUESTIONS RELATED TO FISCAL YEAR 2006-2007 BUDGET#410-02**
- L. RESPONDING TO QUESTIONS RELATED TO FISCAL YEAR 2006-2007 BUDGET - FUNDS TRANSFERS #410-02**
- M. REQUEST FOR OVERNIGHT TRAVEL - LEAGUE OF CALIFORNIA CITIES #301-01**

Councilmember Davis arrived at 7:19 P.M.

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

**Item A** – On motion by Councilmember Conley, seconded by Councilmember Kalinowski the City Council approved the minutes of April 25, 2006. The motion carried by the following vote:

Ayes: Davis, Kalinowski, Conley, Freitas

Abstain: Simonsen

On motion by Councilmember Conley, seconded by Councilmember Kalinowski the City Council unanimously approved the minutes of May 9 and 23, 2006.

**Item C** – Councilmember Simonsen announced there have been amendments to AB 2987 (Nunez/Levine) Cable and Video Service therefore he is requesting this item be continued to further study the issues.

Mayor Freitas announced item C-1 would be continued.

On motion by Councilmember Simonsen, seconded by Councilmember Conley, the City Council unanimously approved Legislation and Advocacy.

## **REGULAR AGENDA**

### **6. PREPARATIONS FOR QUALITY OF LIFE FORUM #301-01**

Councilmembers Kalinowski presented the staff report dated June 6, 2006 recommending the City Council select the date of Saturday, July 22nd or 29th, depending on Council availability. He further requested staff be directed to continue to work with the Subcommittee to finalize the agenda and participant list. The Subcommittee would also seek Council input regarding the idea of utilizing the services of a facilitator to assist in the staging of the Community Forum.

Councilmember Conley encouraged everyone participating in the forum to have positive ideas attached to their concerns. He suggested contracting through the County or California Highway Patrol to temporarily fill the vacancies in the Antioch Police Department.

Ken Lee, Antioch resident, stated the quality of life forum did not list the following topics: Expanded Senior Programs, Handicapped accessibility, Youth programs, Community Disaster Response Training and Traffic Calming in residential areas.

Following discussion the City Council tentatively set July 22, 2006 as the forum date and suggested the subcommittee present an agenda, potential speakers, and goals they hoped to achieve to the Council at the next regularly scheduled meeting.

## **PUBLIC HEARINGS**

- 2. RESOLUTION FINDING NO MAJORITY PROTEST, ESTABLISHING THE BOUNDARIES OF THE AREA OF BENEFIT, ESTABLISHING THE COSTS AND METHOD OF ALLOCATION OF COSTS AND FEE APPORTIONMENT FOR THE KAISER MEDICAL CENTER PUBLIC BENEFIT DISTRICT AND RESOLUTION APPROVING REIMBURSEMENT AGREEMENT WITH KAISER FOUNDATION HOSPITALS FOR ROADWAY IMPROVEMENTS ON DEER VALLEY ROAD, WELLNESS WAY AND SAND CREEK ROAD (PW 628-BD) #806-05**

City Engineer/Community Development Director Brandt presented the staff report dated June 7, 2006 recommending the City Council open the Public Hearing; entertain a motion to continue the Public Hearing to June 27, 2006, or other date chosen by Council, and take public testimony for those who are unable to attend the continued Public Hearing.

Mayor Freitas opened the public hearing.

Mayor Freitas announced the City Council had received letters from Archer Norris and Henn Etzel & Moore Inc., which would become part of the public record.

Michael Monaldo, Project Director, Kaiser, clarified they did not view the extension as an issue with the MOA for the four party agreement. He thanked staff for facilitating the process and noted they were hopeful there would be a timely resolution.

The item was continued to July 11, 2006.

- 3. RESCINDING AND RE-ENACTING ARTICLE 40 OF CHAPTER 5 OF THE ANTIOCH MUNICIPAL CODE REGARDING THE CITY'S RESIDENTIAL DEVELOPMENT ALLOCATION (RDA) ORDINANCE #204-01**

Community Development Deputy Director Carniglia presented the staff report dated June 7, 2006 recommending the City Council: A) Adopt the urgency ordinance rescinding and re-enacting Article 40 of Chapter 5 of Title 9, dealing with Residential Development Allocation; B) Introduce the regular (non-urgency) ordinance by title only; and C) Introduce the regular (non-urgency) ordinance rescinding and re-enacting Article 40 of Chapter 5 of Title 9, dealing with Residential Development Allocation.

In response to Councilmember Kalinowski, Community Development Deputy Director Carniglia stated the Black Diamond project would be required to meet the timelines for RDA as established by Measure K and the soonest it could come before Council for action would be January 2008.

City Engineer/Community Development Director Brandt added, assuming the condition was placed on the project prior to Measure K there was a two-year delay and the Council could consider extending the cut off date by whatever they determined to be appropriate. He stated

staff's understanding of Measure K was that the project could run through the RDA process, however an allocation could not be granted until 2008.

Mayor Freitas clarified when Measure K passed, no residential developments could be formally approved, however the zoning was in place and the RDA process and tentative map could go forward as tentative decisions until 2008.

City Attorney Nerland clarified the action before Council this evening was to memorialize the action Council took a year ago, which was inadvertently brought forward with the incorrect document. She noted questions regarding the implementation of procedures could be brought forward for further Council discussion at a later date.

In response to Councilmember Kalinowski, City Engineer/Community Development Director Brandt stated the urgency ordinance clarified the code regarding the submission of tentative maps.

Councilmember Conley suggested agendizing the City's policy and timelines for zoning, RDA and tentative maps to formalize the process.

Councilmember Kalinowski requested in the future Council be briefed on potential litigation issues prior to being provided the information in council packets.

Mayor Freitas opened the public hearing.

Louis Parsons, representing Discovery Builders, stated they were under the impression they could submit an entitlement application to the City. He urged the City Council to adopt language that would allow them to submit their entitlement applications for staff review and processing prior to receiving RDA allocations.

In response to an audience member, Mayor Freitas clarified RDA stood for Residential Density Allocation.

Mayor Freitas closed the public hearing.

Community Development Deputy Director Carniglia clarified, given the issues with RDA impacts; the sunset of the article was added and could be reviewed and approved for extension by the City Council prior to May 1, 2010.

Mayor Freitas stated this issue breaks out the process with zoning, RDA and tentative map. He noted the zoning had been completed, however, based on the language of Measure K, the RDA was a tentative decision, and the tentative map would remain tentative, with no entitlements occurring until after January 1, 2008.

City Engineer/Community Development Director Brandt clarified the urgency ordinance was a clarification of the code to avoid anyone from receiving the incorrect ordinance.

City Attorney Nerland stated the creation of a flowchart to come before the Planning Commission and City Council for approval to be distributed among the developers would be advantageous.

In response to Mayor Freitas, Community Development Deputy Director Carniglia reported the sunset provision was on the March amendment of the ordinance.

**ORDINANCE 1071-C-S**

On motion by Councilmember Simonsen, seconded by Councilmember Conley, the City Council adopted the urgency ordinance rescinding and re-enacting Article 40 of Chapter 5 of Title 9, dealing with Residential Development Allocation. The motion carried by the following vote:

Ayes: Davis, Conley, Simonsen, Freitas

Noes: Kalinowski

On motion by Councilmember Conley, seconded by Councilmember Kalinowski, the City Council unanimously introduced the regular ordinance by title only.

On motion by Councilmember Conley, seconded by Councilmember Kalinowski the City Council unanimously introduced the regular ordinance rescinding and re-enacting Article 40 of Chapter 5 of Title 9, dealing with Residential Development Allocation.

Mayor Freitas stated the issue of process was extremely important and Council would like to have the matter brought back as soon as possible.

Councilmember Kalinowski presented the proclamation proclaiming June 14, 2006 as Flag Day to Mr. Marks who thanked the City Council for the proclamation.

Mayor Freitas declared a recess at 8:07 P.M. The meeting reconvened at 8:18 P.M. with all Councilmembers present.

#### **COUNCIL REGULAR AGENDA**

#### **4. ORDINANCE ADDING SECTION 1-3.15 TO THE ANTIOCH MUNICIPAL CODE REGARDING CONSISTENCY OF ANY USE, ENTITLEMENT, AUTHORIZATION, LICENSE OR PERMIT WITH APPLICABLE STATE AND FEDERAL LAW AND DIRECTION TO STAFF REGARDING MEDICAL MARIJUANA DISPENSARIES**

**#701-05**

City Attorney Nerland presented the staff report dated May 26, 2006 recommending the City Council: A) Introduce the ordinance by title only; B) Introduce the ordinance to add Section 1-3.15 to the Antioch Municipal Code, regarding consistency of any use, entitlement, authorization, license or permit with applicable state and federal law; and C) Provide direction to staff regarding a specific ordinance addressing medical marijuana dispensaries

A motion was made by Councilmember Kalinowski and seconded by Councilmember Davis to approve the staff report items #1, 2, and 3 (option 2b). Following discussion the Council agreed item #3 with option 2b was redundant, therefore the motion was amended by Councilmember Kalinowski and seconded by Councilmember Davis as follows:

On motion by Councilmember Kalinowski, seconded by Councilmember Davis, the City Council unanimously: 1) Introduced the ordinance by title only, and; 2) Introduced the ordinance to add Sections 1-3.15 to the Antioch Municipal Code regarding consistency of any use, entitlement, authorization, license or permit with applicable state and federal law.

#### **5. BUDGET DEVELOPMENT FISCAL YEAR 2006-2007- RESERVE POLICY**

**#410-02**

City Manager Jakel presented the staff report dated June 7, 2006 recommending the City Council: Receive and review budget data for the Fiscal Year 2006-2007 Budget and provide direction to staff on establishing a formal reserve policy.

Finance Director Brookshire stated she was available to answer any questions.

Following discussion the City Council requested the Reserve Policy be amended to clarify the following:

General Reserves

- That the annual minimum reserve be set at 10% with a goal of 15% and if it exceeds the 15% is the floor.

Mandated Liabilities Reserve

- Clarify in the third sentence it references the previous year's annual audit.

The City Council requested this policy be brought back to the City Council for further revisions following the adoption of the 2006-07 budget.

**PUBLIC COMMENTS** - None

**STAFF COMMUNICATIONS** - None

City Attorney Nerland announced City Attorney Galstan would be filling in for her while she was on vacation.

City Manager Jakel reminded the City Council there would be a Study Session held on June 20, 2006 at 6:00 P.M. and the Relay for Life event will be held on June 24-25, 2006.

**COUNCIL COMMUNICATIONS**

Councilmember Conley announced he had attended the War Dog Memorial on May 29, 2006 and requested the City Council send a letter to local officials requesting a War Dog stamp be issued.

The Council concurred and requested the letter also be sent to the Post Master.

Councilmember Conley reported he had received an email regarding the Rivertown Jamboree and suggested requesting the budget from the Rivertown Jamboree Board to determine which non-profits did not receive funds. He discussed the importance of making the non-profits whole and ensuring no misunderstandings occur in the future. He requested a meeting be set up with the Rivertown Jamboree Board.

Councilmember Kalinowski requested the Rivertown Jamboree be agendized to explore the City's options.

Mayor Freitas requested a total costs for personnel be included for the discussion when this item returned to Council.

Councilmember Simonsen requested information regarding liability issues should the City assume control of the Rivertown Jamboree.

Councilmember Davis reported he had also attended the War Dog Memorial dedication and Memorial Day event on May 29, 2006, both of which were great programs. He thanked all those who participated and provided a broadcast schedule.

Councilmember Simonsen thanked Councilmember Davis for organizing the Memorial Day event. He reported there would be a meeting of the San Francisco Water Transit Authority and requested City staff participate.

**ADJOURNMENT**

With no further business, Mayor Freitas adjourned the meeting at 8:53 P.M. to the next Council meeting on June 20, 2006 at 6:00 P.M.

Respectfully Submitted

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L. Jolene Martin, CMC