

**ANTIOCH CITY COUNCIL  
ANTIOCH DEVELOPMENT AGENCY**

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

**August 8, 2006  
Council Chambers**

**5:45 P.M. - CLOSED SESSION**

- 1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION.** Significant exposure to litigation, one case. This closed session is authorized by Government Code §54956.9(b)(1).
- 2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION** Administrative Civil Liability Complaint No. R5-2006-0512 issued by the California Regional Water Quality Control Board - Central Valley Region to the City of Antioch and Somersville-Gentry, Inc. This Closed Session is authorized by Government Code §54956.9(a)
- 3. AGENCY/COUNCIL CONFERENCE WITH REAL PROPERTY NEGOTIATORS –** Negotiations with the City Manager/Executive Director and Economic Development Director concerning a Master Disposition and Development Agreement with Arcadis/Rivertown Development LLC regarding the terms of any conveyance of City and/or Agency property in the downtown area and along the Antioch waterfront (Redevelopment Agency Project Area No. 1 plus some adjoining areas). This Closed Session is authorized by Government Code §54956.8

Mayor Freitas called the meeting to order at 7:09 P.M., and City Clerk Martin called the roll.

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

Mayor Freitas 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.

**ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS**

Joseph Zamora, representing Becas Hispanicas Inc., announced the organization had raised funds for college scholarships to be awarded to individuals of Iberian Peninsula ancestry from both Deer Valley and Antioch High Schools.

**PUBLIC COMMENTS**

Manuel Soliz Jr., Manuel Soliz Sr. and Rich Soliz representing the Knights of Columbus invited the community to attend Blue Mass and brunch at Humphrey's on the Delta honoring Antioch's Police and Firefighter of the Year. In addition, Manual Soliz Jr. announced the Delta Blues Festival would be held on September 16, 2006. Contact information was given.

Mayor Freitas encouraged the community to participate in honoring the Police and Firefighters and thanked the Knights of Columbus for hosting the event.

Manuel Soliz Jr. stated the Pledge of Allegiance was modified on Flag Day in 1954 when Dwight D. Eisenhower signed into law the inclusion of the words "One Nation Under God" as part of the Pledge of Allegiance, which was spearheaded by the Knights of Columbus. He further noted this phraseology had recently been challenged in court; however, the Knights of Columbus were prepared to prevail in their intent to maintain the language.

Ken Lee, Antioch resident, discussed action taken by the Planning Commission and City Council to correct issues related to the auto dealerships as well as other existing concerns.

Emil Stein, Antioch resident, stated he felt his civil rights had been violated by holding over his Public Comment until the end of the last City Council meeting.

Allen Payton, Antioch resident, questioned when the street repairs would be completed on "L" Street from 4<sup>th</sup> to 10<sup>th</sup> Streets.

Mayor Freitas requested staff provide information on this issue as a consent item.

**1. COUNCIL CONSENT CALENDAR**

**A. APPROVAL OF COUNCIL MINUTES FOR JUNE 27, and JULY 11, 2006 #301-02**

**B. APPROVAL OF COUNCIL WARRANTS #401-01**

**C. STATEMENT OF INVESTMENT POLICY#101-04**

**D. REJECTION OF CLAIM #704-07 - *denied***

**1. Joyce Smith-Brown, #06/07-1657 (vehicle tow)**

**E. LEGISLATION AND ADVOCACY #701-04**

**F. RESOLUTION NO. 2006/83 AUTHORIZATION TO HIRE A COMMUNITY CENTER PROJECT MANAGER #509-03**

**G. RESOLUTION NO. 2006/84 APPROVING FINAL MAP AND IMPROVEMENT PLANS AND RESOLUTION NO. 2006/85 ACCEPTING GRANT DEED FOR ONE-FOOT STRIPS FOR NELSON RANCH UNIT 2 SUBDIVISION, (STANDARD PACIFIC HOUSING), TRACT NO. 8850 AND ANNEXING TO THE CITY WIDE LIGHTING AND LANDSCAPING DISTRICT 1, ZONE 1 (PW 547-2) #802-02**

- H. **RESOLUTION NO. 2006/86 FINDING WILLIAM LYON HOMES (SAND CREEK RANCH DEVELOPMENT) IN GOOD FAITH COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE DEVELOPMENT AGREEMENT FOR THE 2005 CALENDAR YEAR #802-02**
- I. **CONSIDERATION OF BIDS FOR THE SIERRA CRETE PAVEMENT ROADWAY REPAIRS (P.W. 392-23) #1102-04**
- J. **AUTHORIZE ADDITIONAL ENGINEERING SERVICES TO BKF ENGINEERS, INC. FOR ADDITIONAL RIGHT-OF-WAY ENGINEERING SERVICES AND DESIGN WORK FOR SAKURAI STREET (P.W. 528-SP1) #1102-04**

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

**Item C** – Mayor Freitas reported some financial advisors were advising public agencies the target average maturity of the portfolio should be longer than 18 months, therefore, he felt the City should reconsider this issue and PFM should explain why they had made this recommendation. He suggested holding item “C” to September and having the Investment Advisory Committee review and make modifications, if necessary, to assure the policy was an accurate reflection of City’s practices.

On motion by Councilmember Simonsen, seconded by Councilmember Conley, the City Council unanimously held item #C over with a recommendation from the City Treasurer and staff.

**Item F** – Tom McNell, Antioch resident, stated he felt the Mello Roos funds should be earmarked for turf fields in Antioch and capital expenditures only. He requested this item be held until there was public input on how the funds should be spent.

Councilmember Conley, who was appointed by Mayor Freitas to represent the City of Antioch on the Mello Roos Board, stated those individuals overseeing the Mello Roos Board had consistently indicated a project manager was within the scope of the Mello Roos funds. He noted the \$26M in Mello Roos funds were designated specifically for Prewett Park.

City Manager Jakel reviewed the process for moving forward with the master plan for the community center/civic center project.

Councilmember Kalinowski agreed turf fields were an issue and he would support the project manager without ruling out other options or opportunities for turf fields outside the Mello Roos District.

Mayor Freitas voiced his support for going forward with the project manager. He requested the Parks and Recreation Commission agendaize turf fields as soon as possible and instructed staff

to contact all interested parties. He noted RDA monies (Residential Development Allocations) were a source of revenue for the construction of the turf fields.

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

## **PUBLIC HEARINGS**

### **2. RESOLUTION DECLARING FORMATION OF LANDSCAPE, LIGHTING AND PARK MAINTENANCE ASSESSMENT DISTRICT, APPROVING ENGINEER'S REPORT WITHOUT MODIFICATION, LEVYING ASSESSMENTS FOR 2006-07, AND ORDERING LANDSCAPING, LIGHTING AND PARK MAINTENANCE SERVICES FOR BLACK DIAMOND RANCH LANDSCAPE, LIGHTING AND PARK MAINTENANCE ASSESSMENT DISTRICT NO. 2A-10, LOCATED NORTH OF BUCHANAN ROAD, WEST OF SOMERSVILLE ROAD AND NORTH AND SOUTH OF JAMES DONLON BLVD #806-03**

Administrative Analyst Hoffmeister presented the staff report dated July 27, 2006, recommending the City Council adopt the Resolution confirming the formation of the Antioch/City-Wide Street Light and Landscape Maintenance District No. 2A, Zone 10 (SLLMD 2A-10) and order the improvements and levy the annual assessments for Fiscal Year 2006/2007.

Mayor Freitas opened the public hearing.

Louis Parsons, representing Discovery Builders, stated he had worked with staff on the engineers report for District 2A and the future formation of the district had been disclosed to all property owners within the district.

Councilmember Kalinowski stated he would not approve the level of maintenance specified in the existing assessment districts, as he felt they were insufficient.

Mayor Freitas stated Council's primary concern was the landscaping plans provide upscale plants the City could properly maintain in an acceptable state without placing a burden on staff or the budget.

Mayor Freitas closed the public hearing.

Councilmember Kalinowski requested the motion contain both directions for staff to return to Council with doable options for the City, and to assure a sufficient level of maintenance, secure contract landscape maintenance within the next 60 days.

Phil Harrington clarified Assessment Districts 10 and 2A-10 were engineered and developed with the level of maintenance desired by Council, adding he was in support of the new districts going out for service bids.

Mayor Freitas continued this item until there was a final tally of the ballots at which time the City Council would take formal action.

**3. LA PALABRA DIOS IS APPEALING THE PLANNING COMMISSION'S DECISION TO DENY A USE PERMIT FOR RELIGIOUS ASSEMBLY LOCATED AT 611 WEST THIRD STREET. (APN: 066 062 015) UP 06 05 #202-10**

City Attorney Nerland presented the staff report dated August 2, 2006. She stated she had discussed with the attorney for the applicant an additional condition of approval, if the Council is inclined to approve this use. In effect, the church would be offering the City, at no cost, a right of first refusal to purchase the property, should the church decide to sell or lease the property.

Mayor Freitas announced the City Council had received a letter from Susan Kennedy.

Mayor Freitas clarified the church had requested the City of Antioch purchase the La Fontana building, reimbursement for out of pocket expenses and for additional funds if a new building were purchased that exceeded the original costs.

Councilmember Conley stated, in order for the City to understand the viability of the proposal, he would need to ask the applicant and their attorneys provide a listing contract for the building, a sales contract, appraisals, inspections and preliminary title report.

Steven Wood, Attorney for the applicant, stated the church was willing to provide the requested documentation, however, should the City purchase the building, the issue of finding an alternative location would remain unresolved. He noted however, should Council, in good faith, negotiate the purchase of the building with arraignments for a lease back, it would be his recommendation to the applicant to provide the documents and continue working with the City Council to pursue an alternate location.

In response to Councilmember Conley, Mr. Woods stated he would have to confer with his clients to determine if they would be willing to extend the appeal period.

In response to Councilmember Simonsen, Mr. Wood stated his firm had not been retained to pursue the denial of the two Pittsburg locations. Therefore, he had not discussed those denials with the applicant.

Following discussion, the City Council agreed the church use was not consistent with the vision or efforts the City had made to revive the core commercial area of downtown Antioch, however, they agreed they could not use taxpayers' dollars to relocate the church nor would they expose the City to litigation.

**RESOLUTION NO. 2006/88**

On motion by Councilmember Conley, seconded by Councilmember Davis, the City Council overruled the Planning Commissions denial of the Use Permit of La Palabra de Dios with the addition of the following:

- Language added stipulating prior to occupancy, the applicant shall enter into a right of first refusal agreement with the City, which shall be recorded on the property. The agreement shall provide that the property owner shall notify the City Manager and City Attorney in writing at least 30 days prior to marketing the property for sale or for lease and shall also notify the City Manager and City Attorney in writing at least 30 days prior to accepting an offer for sale or lease of the property to allow the City and/or Antioch Development Agency the opportunity to consider acquiring the property. The term of this right of first refusal agreement shall run concurrently until July 15, 2015. The specific language of the right of first refusal agreement shall be approved by the City Manager and City Attorney.
- Amending #2 under the sixth whereas of the resolution inserting 'The General Plan "which was approved unanimously in November of 2003", recognizes the.....'
- Inserting language indicating the parking lot to be used by the church is owned by the City of Antioch.

The motion carried by the following vote:

Ayes: Davis, Kalinowski, Conley, Freitas

Abstain: Simonsen

Mayor Freitas declared a recess at 8:36 P.M. The meeting reconvened at 8:56 P.M. with all Councilmembers present.

#### **PUBLIC HEARINGS - Continued**

- 2. RESOLUTION DECLARING FORMATION OF LANDSCAPE, LIGHTING AND PARK MAINTENANCE ASSESSMENT DISTRICT, APPROVING ENGINEER'S REPORT WITHOUT MODIFICATION, LEVYING ASSESSMENTS FOR 2006-07, AND ORDERING LANDSCAPING, LIGHTING AND PARK MAINTENANCE SERVICES FOR BLACK DIAMOND RANCH LANDSCAPE, LIGHTING AND PARK MAINTENANCE ASSESSMENT DISTRICT NO. 2A-10, LOCATED NORTH OF BUCHANAN ROAD, WEST OF SOMERSVILLE ROAD AND NORTH AND SOUTH OF JAMES DONLON BLVD #806-03**

Mayor Freitas reported he had received the vote tally and the total assessment indicates those in favor total 140,754.9 and those opposed 1968.6.

#### **RESOLUTION NO. 2006/87**

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

#### **COUNCIL REGULAR AGENDA**

**4. STUDY SESSION RE: DISCUSSION OF THE GENERAL PLAN CONSISTENCY OF A CONCEPTUAL DEVELOPMENT PLAN FOR THE ZEKI PROPERTY, LOCATED WITHIN THE SAND CREEK FOCUS AREA WEST OF EMPIRE MINE ROAD #202-01**

Mayor Freitas stated this item was not agendaized as an action item for the City Council, but rather as an information item to allow input from the City Council to the applicant.

Community Development Deputy Director Carniglia presented the staff report dated July 19, 2006 recommending the City Council hold a Study Session and provide feedback and direction to the applicant on the consistency of certain aspects of the proposal with the City's General Plan.

Mayor Freitas read a letter dated August 7, 2006 from the East Bay Regional Park District received August 8, 2006, regarding the Black Diamond Regional Park.

Doug Dalin, representing the applicant, stated both he and the applicant understood statements made during this meeting were strictly advisory and could not bind the City Council to further action. He gave a brief history of the Zeki property and reviewed the conceptual development plan. Speaking to the staff report, Mr. Dalin stated they felt the proposal, as it related to area #2 and open space, was consistent with Antioch's General Plan.

Mayor Freitas clarified for the record, not all acreage contained in the development plan was developable, and therefore it was a misnomer to say it was 1280 units.

In response to Mayor Freitas, Mike Miliani stated their engineers felt the water runoff could be treated with a small treatment plant onsite. He reported discussions with the sewer district had indicated they were willing to take the water into the sewer treatment plant, provided the onsite materials were dealt with sufficiently to meet minimum thresholds. He added a funding mechanism would be put into place and it would be part of the project level EIR.

Mayor Freitas reported new water quality standards, called total maximum daily load (TMDL), required testing to include mercury, PCP and arsenic. Mayor Freitas further stated the minimum threshold would be difficult to achieve, and requested information from a local treatment plant dealing with similar issues be provided.

Following discussion the City Council provided the following feedback:

Area #2

Councilmember Conley stated he felt this area was the least plausible area to expand due to the choke point, water problems and political issues.

Mayor Freitas stated he was opposed to area #2.

Councilmember Simonsen stated he would support area #2. However, should Council oppose development in this area, he would suggest consideration of additional units in one of the other areas, thus providing sufficient units to support the infrastructure and maintenance

Councilmember Kalinowski stated with setbacks and the project level EIR, he may support the final development plan for area #2.

Councilmember Davis stated he was not opposed to the development of area #2 at this time

Mayor Freitas requested a representative from the Central Valley Regional Water Quality Control Board speaking to Council on this matter.

### Area #3

Council consensus was a unit count of 8-10 was acceptable, contingent on the EIR and grading.

### Lot Size

Councilmember Simonsen stated he felt it was reasonable to accept some houses above and some below the lot size.

Councilmember Kalinowski stated he agreed with the concept of using creativity to achieve 20,000 sq. ft. lots provided the streetscapes be varied enough to provide a unique project.

Councilmember Conley stated he was in support of large lots with small footprints for the homes in a natural setting.

Regarding the interior lots, Community Development Deputy Director Carniglia stated staff was willing to work with the developer to increase the lot sizes.

Mayor Freitas stated he understood there would be variations, however, they should not be extreme. In addition, he noted the concept for the entire project was that it be an upscale development with smaller lots in the interior, and voiced his concern regarding the lack of creativity.

In summary, Mayor Freitas reiterated, with regards to area #1 there is concurrence Council is comfortable with the plan understanding there may be impacts with regards to the resource agencies and the environmental impact report will dictate those changes. With regards to area #2 there is some flexibility for the area and a concern regarding the discharge of water quality issues. With regard to area #3 the Council could accept some development based on the EIR, ingress and egress as well as grading should be considered to allow for more creativity for the cluster development on the interior.

Mayor Freitas declared a recess at 10:23 P.M. The meeting reconvened at 10:31 with all Councilmembers present with the exception of Councilmember Simonsen.



**5. DISCUSSION OF INFORMATION FROM COMMUNITY FORUM HELD ON JULY 22, AND THE NEXT STEPS TO BE UNDERTAKEN #301-01**

Mayor Freitas presented the staff report dated August 1, 2006 recommending the City Council provide direction to staff reported to the next steps as a follow-up to the July 22, 2006 Community Forum.

Chief Hyde stated he feels the community forum was successful at receiving input from the residents. He noted they would bring a report back with regards to how the City is responding with community safety procedures.

Following discussion the City Council provided the following direction:

- Councilmembers Kalinowski and Conley will continue with the subcommittee with the purpose of setting the agenda for the next forum focused on rental issues and return to the City Council with a report on September 12, 2006.
- The forum will be held on September 16, 2006 from 9:00 A.M. – 1:00 P.M. with the first 30-45 minutes dedicated to recap what occurred at the last meeting and review action taken by the city.
- The forum shall be advertised in the Contra Costa Times, Antioch Press, Bill insert and city website.
- The city shall notify organizations that have previously attended and it will be videotaped if possible.

Contact information will be requested from those who participate.

**6. URGENCY ORDINANCE DECLARING AN INTERIM STUDY PERIOD ("MORATORIUM") FOR MESSAGE PARLORS AND OTHER ESTABLISHMENTS PRIMARILY PROVIDING MESSAGE SERVICES IN ALL ZONING DISTRICTS #701-05**

City Attorney Nerland presented the staff report dated August 8, 2006 recommending the City Council adopt the urgency ordinance.

Rochelle LeVa La O.M.D., representing The American Institute of Natural Healing stated she supports the direction of the City Council this evening and spoke to the importance of assuring businesses are legitimate and therapist have property training. She reviewed and offered to supply the city with guidelines pertaining to businesses offering message services.

City Attorney Nerland requested contact information from Ms. LeVa so she can be included in the initial review of the ordinance.

**ORDINANCE 1075-C-S**

On motion by Councilmember Conley, seconded by Councilmember Simonsen the City Council unanimously approved the urgency ordinance.

**7. CITY COUNCIL POLICY RELATED TO RESPONDING TO PUBLIC COMMENTS ON THE CITY COUNCIL AGENDA #301-01**

Councilmember Kalinowski presented the staff report dated July 31, 2006 recommending that the City Council provide direction to staff and suggested the City Council consider an option for a restraining order for individuals who are threatening or intimidating others.

Ken Lee, Antioch resident, stated he feels there should be an understanding regarding proper procedure and the City Council should set the example.

Mayor Freitas read written comment from Devi Lanphere who discussed the importance of hearing the public's concerns and urged the residents to voice those concerns in a civil manner.

Following discussion the City Council agreed it is important not to infringe on freedom of speech however it is incumbent upon the Mayor to maintain control in Council Chambers. They requested at the end of Public Comment, after the last speaker has left the dais, staff and the City Council have the opportunity to respond and clarify any issues raised.

Mayor Freitas stated he would be using the gavel more to maintain control and if it requires an escort from the Chambers, he will be making that request of Police Officers. He suggested to Mr. Stein that personal attacks are inappropriate.

Mayor Freitas requested "Responses to Public Comment" be added as an item on the City Council agenda.

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

**8. AGENCY CONSENT CALENDAR**

**A. APPROVAL OF COUNCIL WARRANTS #401-01**

**B. AMEND THE 2005/06 ANTIOCH DEVELOPMENT AGENCY BUDGET BY (1) APPROPRIATING \$82,010.33 TO THE LOW AND MODERATE CIP BUDGET AND (2) TRANSFERRING FUNDS IN THE AMOUNT OF \$82,010.33 FROM THE LOW AND MODERATE INCOME HOUSING BUDGET TO THE LOW AND MODERATE CIP BUDGET #410-02**

**RESOLUTION NO. ADA-412**

Agency Member Simonsen pulled item A of the Agency Consent Calendar.

**Item B** – On motion by Agency Member Conley, seconded by Agency Member Kalinowski the Antioch Development Agency Members approved item B.

**Item A** – In response to Agency Member Simonsen, Director of Community Development Brandt clarified staff has been working on the underground design, which is nearing completion and they are anticipating starting under work this winter. In addition he noted this is a rural 20B.

On motion by Agency Member Simonsen, seconded by Agency Member Conley the Antioch Development Agency unanimously approved item A.

Chairperson Freitas adjourned to the Antioch City Council.

**PUBLIC COMMENTS** - None

**STAFF COMMUNICATIONS** - None

### **COUNCIL COMMUNICATIONS**

Councilmember Conley requested the City write a letter to the landowners for the properties of known homeless encampment sites and request immediate abatement agreements. He requested staff agendize a discussion regarding the inequality of ABAG numbers for the next City Council meeting.

Councilmember Kalinowski requested the ABAG issue be agendized at a Mayor's conference for discussion and formal direction.

Mayor Freitas stated he could put it on the city/county relations subcommittee.

Councilmember Simonsen stated he would bring this issue up at the East Bay Division of the League of California Cities.

Mayor Freitas requested this item be placed on the agenda and a member of ABAG be present to review the methodology.

Councilmember Davis stated to curtail illegal fireworks in Antioch; he requests the City send a letter to an Assemblyman or Senator requesting a requirement for identification showing residence in the city where fireworks are purchased.

### **ADJOURNMENT**

With no further business, Mayor Freitas adjourned the meeting at 11:28 P.M. to the next regular Council meeting on August 22, 2006.

Respectfully submitted:

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L. JOLENE MARTIN, CMC,  
City Clerk