

ANTIOCH CITY COUNCIL

Regular Meeting
7:00 P.M.

Council Chambers
October 9, 2007

Mayor Freitas called the meeting to order at 7:00 P.M., and Deputy City Clerk Chalk called the roll:

Present: Council Members Kalinowski, Davis, Simonsen and Mayor Freitas
Absent: Council Member Moore

Mayor Freitas announced Councilmember Moore was out of town on official city business.

PLEDGE OF ALLEGIANCE

Councilmember Davis led the Council and audience in the Pledge of Allegiance.

PROCLAMATIONS

HELP PEOPLE WITH INTELLECTUAL DISABILITY DAYS, OCTOBER 19, 20 and 21, 2007

On motion by Councilmember Simonsen, seconded by Councilmember Davis, the Council Members present unanimously approved the proclamations.

Councilmember Davis presented the proclamation proclaiming October 19, 20 and 21, 2007 to Frank Palermo, Grand Knight and members of the Knights of Columbus who encouraged the community to participate in the fund raising drive.

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Barbara Sobalvarro, representing the Friends of Animal Services, announced the 12th Annual Black Cat Ball would be held at the Lone Tree Golf Course and Event Center on October 20, 2007 at 6:30 P.M. Contact information was given for anyone wishing to attend or make a donation.

Ken Lee, Antioch resident, presented the City Council with recreational safety pamphlets he received from the California Highway Patrol.

Devi Lanphere, representing the Delta Quilters, announced they would be hosting a show at the Antioch Fairgrounds October 13 and 14, 2007. Contact information was given for anyone wishing to receive additional information.

PUBLIC COMMENTS

Manny De Mesa, Antioch resident, discussed escalating crime occurring in his neighborhood. He urged the City and Antioch Police Department to address the issue and provide the residents with updates.

Barbara Sobalvarro, President of the Friends of Animal Services, requested the City's assistant in repairing the air conditioner at the Antioch Animal Shelter.

Mayor Freitas requested City Manager Jakel look into the situation at the Antioch Animal Shelter.

Emil Stein, Antioch resident, reported the following intersections did not have contiguous handicapped ramps on all four corners: "F" Street and 11th Streets, "F" and 12th Streets and "G" and 9th Streets. He questioned if the City was going to address the unloading of vehicle transports on Somersville Road.

Capital Improvements Director Harrington discussed the commitment and investment for past and present years the City has had in providing handicapped ramps. He offered to consider any areas of concern from the public and noted they would be providing the City Council with monthly updates of their progress.

Ken Lee, Antioch resident, discussed his unresolved complaints and their negative impact on the quality of life for the residents in the neighborhood adjacent to the Antioch Auto Dealerships.

Joe Zamora, Antioch resident, spoke to a history of racial incidents incurred by the Antioch Police Department.

Suzanne Feeger, Joanne Perez, Laney Door, representing Sutter Delta Nurses, announced they would be striking October 10, 2007 in an effort to improve patient care and requested the support of the City Council and public.

COUNCIL RESPONSE TO PUBLIC COMMENTS - None

1. **COUNCIL CONSENT CALENDAR**
 - A. **APPROVAL OF COUNCIL MINUTES FOR SEPTEMBER 11, 2007 (#301-02)**
 - B. **APPROVAL OF COUNCIL WARRANTS (#401-01)**
 - C. **LEGISLATION AND ADVOCACY (#701-04)**
 - D. **ORDINANCE 2000-C-S AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY AND THE CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS) 2% @ 55 FOR MISCELLANEOUS EMPLOYEES ONLY (#505-03)**
 - E. **ORDINANCE 2001-C-S REPEALING THE MORATORIUM ON THE CONVERSION OF ANY MOBILE HOME PARK FROM A SENIOR PARK TO AN ALL-AGE PARK (#802-01)**
 - F. **APPROVAL OF SEWER SYSTEM MANAGEMENT PLAN (SSMP) – DEVELOPMENT PLAN AND SCHEDULE (#1205-01)**

- G. **RESOLUTION #2007/71 ACCEPTING WORK AND AUTHORIZING CITY ENGINEER TO FILE A NOTICE OF COMPLETION FOR THE SANITARY SEWER INSTALLATION WITHIN FUTURE SAKURAI STREET, (PW 528-SP1) (#1102-04)**
- H. **APPROVAL OF AWARD OF BID NO. 070-0830-08F FOR THE PURCHASE OF (12) POLICE PATROL VEHICLES (#601-02)**
- I. **APPROVAL OF CONTRACT WITH DYETT BHATIA TO INITIATE WORK ON THE eBART RIDERSHIP DEVELOPMENT PLAN (RDP) FOR THE HILLCREST STATION SITE (#1107-03)**

On motion by Councilmember Davis, seconded by Councilmember Simonsen, those Council Members present unanimously approved the Consent Calendar with the exception of items A and I which were removed for further discussion.

Item A – On motion by Councilmember Davis, seconded by Councilmember Simonsen, the City Council Members present approved item A. The motion carried by the following vote:

Ayes: Davis, Simonsen, Freitas

Absent: Moore

Abstain: Kalinowski

Item I – In response to Councilmember Simonsen, Deputy Director of Community Development Carniglia reported the bulk of the money in question was from Federal funding sources, and the Contra Costa Transit Authority. Mayor Freitas added the ridership policy had not yet been determined, noting it did not appear to be an issue as to whether they could reach the threshold.

On motion by Councilmember Simonsen, seconded by Councilmember Davis, the City Council Members present unanimously approved item I.

PUBLIC HEARINGS

- 2. **PULTE/DEL WEBB REQUESTS AMENDMENTS TO THEIR DEVELOPMENT AGREEMENT TO DEVELOP A SENIOR HOUSING COMMUNITY CONTAINING APPROXIMATELY 530 SINGLE STORY, SINGLE FAMILY HOMES TO THE APPROXIMATELY 204 ACRES LOCATED DIRECTLY SOUTH OF THE EXTENSION OF HILLCREST AVENUE AND EXISTING CHAPARRAL PARK (#202-01)**

Deputy Director of Community Development Carniglia presented the staff report dated October 3, 2007, highlighting the benefits of the 5-Party Agreement and recommending the City Council: 1) Adopt the resolution finding the Addendum prepared for the First Amended and Restated Development Agreement adequately addresses the environmental effects of the proposed amended Development Agreement; 2) Introduce the ordinance by title only; 3) Introduce the ordinance approving the “First Amended and Restated Development Agreement” between the City of Antioch and the Pulte Corporation; and 4) Council to provide feedback and comments to staff on the 5-Party Agreement.

In response to Councilmember Simonsen, City Attorney Nerland clarified the City of Antioch would make the ultimate decision on the Sand Creek Road alignment, however it was generally depicted as set forth in the agreement. Additionally, she noted all parties to the agreement were in agreement with the language therein.

Mayor Freitas opened the public hearing.

Chip Stein, Antioch resident, spoke against additional housing being built in Antioch.

Mayor Freitas closed the public hearing.

Councilmember Simonsen clarified the action this evening did not authorize the building of any houses.

City Attorney Nerland clarified Exhibit A to the ordinance was the development agreement and she would be referencing the version on the dais with the date of October 9, 2007.

RESOLUTION NO. 2007/72

On motion by Councilmember Simonsen, seconded by Councilmember Kalinowski, the City Council members present unanimously 1) Adopted the resolution finding the Addendum prepared for the First Amended and Restated Development Agreement adequately addresses the environmental effects of the proposed amended Development Agreement; 2) Introduced the ordinance by title only; 3) Introduce the ordinance approving the "First Amended and Restated Development Agreement" between the City of Antioch and the Pulte Corporation.

Mayor Freitas stated the Council anticipated the 5-Party Agreement would be placed on the Consent Calendar.

COUNCIL REGULAR AGENDA

3. APPOINTMENT TO PLANNING COMMISSION – TWO (2) - FOUR-YEAR TERMS, ONE (1) UNEXPIRED TERM (#302-06)

Mayor Freitas thanked everyone who had applied to serve on the Planning Commission, Police Crime Prevention Commission and Economic Development Commission and encouraged those not appointed to continue to apply for the various openings on the Boards and Commissions.

Mayor Freitas nominated Martin Johnson and Tom Westerman for the full four year terms on the Planning Commission.

On motion by Councilmember Simonsen, seconded by Councilmember Davis, the City Council members present unanimously approved Martin Johnson and Tom Westerman for the full four year terms on the Planning Commission.

Mayor Freitas nominated Kay Trail for the unexpired term on the Planning Commission.

A motion by Councilmember Kalinowski, seconded by Mayor Freitas to approve Kay Trail for the unexpired term on the Planning Commission failed by the following vote:

Ayes: Freitas, Kalinowski

Noes: Davis, Simonsen

Absent: Moore

Mayor Freitas requested the item be reagendaized for the unexpired term appointment.

4. APPOINTMENT TO POLICE CRIME PREVENTION COMMISSION – FOUR (4) – FOUR YEAR TERMS, ONE (1) UNEXPIRED TERM (#302-01)

Mayor Freitas stated he had not had the opportunity to interview one individual therefore he would be making nominations for four of the five positions.

Mayor Freitas nominated Hansel Ho, Jesus “Jesse” Zuniga, Ellen Hayes and Patricia Arellano to the four expired terms on the Police Crime Prevention Commission.

On motion by Councilmember Simonsen, seconded by Councilmember Davis, the City Council members present unanimously approved Hansel Ho, Jesus “Jesse” Zuniga, Ellen Hayes and Patricia Arellano to the four expired terms on the Police Crime Prevention Commission.

Mayor Freitas declared a recess at 8:00 P.M. The meeting reconvened at 8:07 P.M. with all Councilmembers present with the exception of Councilmember Moore, who was previously noted as absent.

5. BALLOT MEASURE CLARIFYING WHEN THE STORAGE OF A RECREATIONAL VEHICLE (RV), TRAILER, BOAT OR SIMILAR VEHICLE IS A PUBLIC NUISANCE (#702-02)

City Attorney Nerland presented the staff report dated October 3, 2007 recommending the City Council consider the following items:

1) Resolutions Prohibiting RVs in the Front Yard (including the Driveway):

a) Resolution Calling a Special Municipal Election on Tuesday, February 5, 2008 for the Submission to the Voters of a Local Ballot Measure Clarifying When the Storage of a RV, Trailer, Boat or Similar Vehicle is a Public Nuisance; and b) Resolution Requesting the Board of Supervisors of Contra Costa County to Consolidate a Municipal Election on a Local Measure with Other Elections to be Held on the February 5, 2008 Regular Election Date

2) Resolutions Allowing One RV in the Front Yard:

a) Resolution Calling a Special Municipal Election on Tuesday, February 5, 2008 for the Submission to the Voters of a Local Ballot Measure clarifying When the Storage of a RV, Trailer, Boat or Similar Vehicle is a Public Nuisance; and b) Resolution Requesting the Board of Supervisors of Contra Costa County to Consolidate a Municipal Election on

a Local Measure with Other Elections to be Held on the February 5, 2008 Regular Election Date

3) Resolutions Allowing One “Grandfathered” RV in the Front Yard:

a) Resolution Calling a Special Municipal Election on Tuesday, February 5, 2008 for the Submission to the Voters of a Local Ballot Measure Clarifying When the Storage of a RV, Trailer, Boat or Similar Vehicle is a Public Nuisance; and b) Resolution Requesting the Board of Supervisors of Contra Costa County to Consolidate a Municipal Election on a Local Measure with Other Elections to be Held on the February 5, 2008 Regular Election Date

Councilmember Simonsen reported Councilmember Moore had requested the item be continued to next week or October 23, 2007 and noted he supported the request

Chris Valenta, Joe Canepa, Richard Robinson, Ralph McCallough and Jennifer Seidelman spoke in opposition to calling a special election on the RV issue and stated they supported the approval of one operational/registered boat and/or RV parked on an improved surface on private property in public view.

Michelle Kuslits, Antioch resident, questioned whether or not CEQA guidelines would apply; therefore subjected to the project environmental review. She recognized Neighborhood Improvements Program Coordinator Ryan Graham for conducting himself in a professional manner throughout the City and public’s consideration of the item.

Fred Glasser, Antioch resident, requested details as to how the RV ordinance would be enforced and spoke in support of grandfathering the ordinance. He voiced his opposition to calling a special election on the issue.

Mark Justice, Antioch resident, stated he had obtained an encroachment permit from the City of Antioch to pour a driveway and sidewalk for RV storage on his property. He spoke in opposition to calling a special election and urged the City Council to decide the issue.

Richard Miller, Antioch resident, gave a brief overhead presentation of several RVs parked in Antioch and expressed his concern with the approval of Option 2 or 3 this evening, the majority of those RVs would be allowed.

Maryjane Carsten, Antioch resident, spoke in support of the ordinance as it was currently written and allowing the voters to decide the issue at a special election.

Chuck Kuslits, Antioch resident, urged residents to review the minutes from the RV subcommittee meetings.

Thayer Johnson, Antioch resident, reported the newspaper had misquoted Ms. Kuslits in an article pertaining to RV issues.

Rick Carsten, Antioch resident, voiced his support of allowing the voters to decide the issue at a special election.

Mayor Freitas read written comment from Antioch residents, David and Susan Yount, Susan Welch, Brenda Kauffman, Nancy Kelly and Don Bright who spoke in support of RVs being stored out of sight and placing the ordinance on the ballot.

Mayor Freitas read written comments from Joel Carone indicating there were RV storage spaces available in Antioch.

Mayor Freitas read written comment from Nordyn Anderson and Dee Vieira requesting the City Council support the current RV ordinance.

Mayor Freitas read written comments from Antioch resident Joe Zamora who, due to the expense, indicated he was opposed to calling a special election, and urged the City Council to decide the issue.

Mayor Freitas read written comments from Lori Hendren who indicated she was against putting the issue to a vote of the residents and against a ban on parking her RV on private property. She provided the names of several other residents who she indicated were in agreement with her comments this evening.

Councilmember Simonsen discussed the importance of assuring the ordinance did not supersede any conditions, covenants and restrictions (CCRs) homeowners had on their property. He expressed concern RVs stored outside the city limits would reduce the City's tax revenues. He stated with the restrictions as previously discussed by the RV subcommittee, he would support allowing RVs to be parked on private property. He requested the City Council consider Councilmember Moore's request to continue the item to provide him the opportunity to comment on the issue.

Councilmember Davis voiced his support for allowing one legally registered, maintained and safe RV to be parked on private property. He stated if no consensus was reached tonight, he would support reconvening a subcommittee to come to a conclusion on the issue. He stated he did not support the issue going to a vote unless a consensus could not be reached and urged the City Council to consider adopting the San Ramon RV ordinance.

Neighborhood Improvement Coordinator Graham reviewed the enforcement proceedings and stated he felt the San Ramon program was a well thought out compromise that would not impact the residents who had made accommodations to park RVs on their properties. He stated he did not foresee enforcement and the impacts of the grandfathering program being a burden for his staff.

Councilmember Kalinowski stated he would entertain the San Ramon concept of grandfathering one (1) RV; however they must be parked on a completely paved surface. Additionally he noted there needed to be a deadline for registering with the City and if there was any deviation from the San Ramon concept he would support the issue going to a vote.

Mayor Freitas stated he supported and would vote for a resolution prohibiting RVs from being stored in front yards. He suggested holding the item over to a special meeting of the City Council and if there was a sense of the City Council to look at the San Ramon model, they should do so. He stated he opposed grandfathering and felt it would be a huge undertaking administratively. Additionally, he felt the City needed to address the issue of unsafe and unsightly RV storage currently occurring.

Following discussion the City Council agreed to continue the item to October 16, 2007 at 6:30 p.m. with no additional public comments. In addition to the information provided, they requested a discussion on proper covers and a clarification from the City Attorney as to who had precedence, the City ordinance or CCRs.

Mayor Freitas requested City Attorney Nerland correct wording in the first ballot measure language to read: 3) "the vehicle is the sole means....".

On motion by Councilmember Simonsen, seconded by Councilmember Davis, the City Council members present continued item #5 to October 16, 2007 at 6:30 P.M. and added the option for the City Council to adopt an ordinance.

Mayor Freitas declared a recess at 9:38 P.M. The meeting reconvened at 9:45 P.M. with all Councilmembers present with the exception of Councilmember Moore who was previously noted as excused.

6. STREET LIGHTING AND LANDSCAPE MAINTENANCE DISTRICT – CONTRACT MAINTENANCE PROPOSAL (#1402-03)

Director of Public Works Scott presented the staff report dated August 17, 2007 recommending the City Council: 1) Approve the contract with TruGreen LandCare for maintenance of the SLLMD's; 2) Directed staff to finalize negotiations with the employee bargaining units and proceed with the transfer of affected employees to other divisions in Public Works; and 3) Approve the appropriations and positions required to implement the Immediate Response Team Program.

Arlyn Erdman, representing Local One, stated he felt the meet and confer process should be engaged in prior to the decision regarding the approval of the contract. He questioned confirmation TruGreen was paying prevailing wage to their employees and reported he had provided information to the City Council regarding the company's prior performance history with the City, which resulted in their contract being cancelled. He expressed his concern regarding the consequences of TruGreen's contract being cancelled in the future, and awarded to the second highest bidder as those City employees would have been placed elsewhere. He stated if the City awards the bid, they request the payroll record for each payroll period to assure they were paying prevailing wage. He urged the City Council to not accept the bid from TruGreen LandCare.

Wayne Burgess, Antioch Public Works Employees Local #1, urged the City Council to keep the current City employees and deny the bid to TruGreen.

Kirk Conkel, Antioch resident, spoke on behalf of those City employees wishing to maintain their current jobs. He expressed his concern outsourcing would lower moral and cause employees to be uncertain of their job security.

Martin Fernandez, Antioch resident, spoke in support of denying the bid to TruGreen and urged the City Council to retain the City employees in their existing positions.

In response to Councilmember Kalinowski, Director of Public Works Scott clarified Four Seasons was purchased by TruGreen, adding they had a negative performance report, however it was a different franchise. He reported TruGreen was equivalent to the prevailing wage rate.

Park Superintendent Palmeri stated he reviewed the file on TruGreen's past performance and concurred, it was a different franchise. He reported he met with Mr. Becker who provided the current bid and he indicated his office and employees were not part of the project at Prewett Water Park.

In response to Councilmember Kalinowski, Mr. Scott clarified employees moving to other City positions would have the same pay scale.

Councilmember Simonsen voiced his support for staff's recommendation noting he felt the promotional opportunities and long term benefits were going to be greater for the employees who moved to other positions. .

Mayor Freitas felt the quality of maintenance would improve if the City properly staffed the division. He noted from a public safety, quality and historic prospective as well as improving the quality of life in the community he did not feel the bid should be awarded. He further noted the emergency response program should be implemented. He expressed concern regarding legal exposure to the City by moving forward prior to the meet and confer process. He recommended the City Council not take action tonight and directed staff to discuss the potential impacts with the employees.

Director of Public Works Scott stated not having had any discussion regarding the placement of the employees was a decision for the City's HR department, who felt the process should begin with the approval of the proposal.

City Manager Jakel stated he was comfortable proceeding tonight, however if the City Council would like to continue the matter to allow staff to discuss the transfers with the unions they would do so.

In response to Councilmember Simonsen, Mr. Becker stated they may be in the position to extend their bid, however he could not commit.

On motion by Councilmember Simonsen, seconded by Councilmember Davis, the City Council members present continued the item for Council discussion to October 23, 2007.

PUBLIC COMMENTS

Arlyn Erdman requested the City Council review the TruGreen Landcare information he had provided them the past evening.

STAFF COMMUNICATIONS

City Manager Jakel announced the City Council would be meeting on October 16, 2007 at 6:30 p.m.

COUNCIL COMMUNICATIONS

Councilmember Simonsen requested Mayor Freitas agendize for the October 23, 2007 City Council meeting, whether the City should continue pursuing Mello Roos funds, in excess of \$50M, for Prewett Park.

Mayor Freitas directed staff to agendize the issue.

Councilmember Kalinowski stated the City Council had agreed to the concept of the build out and he agreed the City should spend the money available for a phased build out while pursuing other monies. He noted most of the functions of those issues would fall to the Mello Roos Board and staff that are paid to administer the funds.

Mayor Freitas felt bringing the issue to the Council would divide the community and be counterproductive to the process. He reported money had been appropriated for the design and until the information came forward, the City could not address operation and maintenance. He suggested letting the process move forward and allowing the Council to receive the information so it could deal with the issues. Additionally, he noted the City Council would be determining the scope of the project in the upcoming 45-60 days.

Councilmember Davis reported since the last Mello Roos Board meeting the subcommittee had reviewed the flyer. He noted it was currently being condensed and was now with the consultant. He further noted it would be returning to the subcommittee and would be before the Mello Roos Board for public comment on November 5, 2007. If approved, the flyer would be sent out to the public and they anticipated having comments back within a month and scheduling three public information meetings in January.

Councilmember Simonsen withdrew his request to have the item agendized and stated he had received the answers he needed.

Mayor Freitas reported former Antioch employees George Yasser passed away October 4, 2007 and Gary Davis passed away on October 8, 2007. Additionally, he reported Federal Glover was critically ill and for all three individuals he offered prayers and wishes to their families and friends.

ADJOURNMENT

With no further business, Mayor Freitas adjourned the meeting at 10:50 P.M. to the next regular Council meeting on October 16, 2007 at 6:30 P.M.

Respectfully submitted:

JANET CHALK, Deputy City Clerk

Approved:

DONALD P. FREITAS, Mayor

Attest:

L. JOLENE MARTIN, CMC, City Clerk