

ANTIOCH CITY COUNCIL

Regular Meeting
7:00 P.M.

February 13, 2008
Council Chambers

6:30 P.M. - CLOSED SESSION

- 1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION** – Pursuant to California Government Code Section 54956.9(a): Kleinfelder, Inc. v. Antioch Diversified Development Associates, Samson Development Company, Michael Minder, the City of Antioch, the Antioch Development Agency and related cross-actions, Contra Costa Superior Court, Case No. C95-03211
- 2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION** – This Closed Session is authorized by California Government Code §54956.9(a): Whiteside Construction Corporation v. J.K. Merz Construction, Inc., Antioch Public Golf Corporation and the City of Antioch, et al.; Davidson Plastering, Inc. v. J.K. Merz Construction, Inc., Contra Costa Superior Court, Case No. Consolidated C06-00730, City of Antioch, Travelers Casualty and Surety Company of America, et al.; J.K. Merz Construction, Inc., v. First Republic Bank, et al., San Francisco Superior Court, Case No. CGC06-454761
- 3. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION** – This Closed Session is authorized by California Government Code §54956.9(a): Evangelho v. City of Antioch; William G. McCullough Co., Contra Costa Superior Court, Case 07-02205; City of Antioch v. Evangelho et al., Contra Costa Superior Court, Case Nos. C06-02345, C06-02391, C06-02392

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

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

City Attorney Nerland reported the City Council had been in Closed Session and had voted unanimously to settle the issue; the judgment had been paid with regards to Item #1 Kleinfelder, Inc. v. Antioch Diversified Development Associates, Samson Development Company, Michael Minder, the City of Antioch, the Antioch Development Agency and related cross-actions.

Mayor Freitas then reported the City Council had been in Closed Session; there was no reportable action on items #2 and 3.

PLEDGE OF ALLEGIANCE

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

City Manager Jakel introduced John Izzo, Vice President of Client Services for Randal Funding.

Mr. Izzo reported they have conducted assessments, identified city priorities and they would be looking for potential sources for funding.

Mayor Freitas requested the City Council add an item to the agenda to direct staff to write a resolution expressing the City of Antioch's position regarding the proposed jail site.

On motion by Councilmember Simonsen, seconded by Councilmember Moore the City Council unanimously placed an item on the agenda to direct staff to write a resolution expressing the City of Antioch's position regarding the proposed jail site

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS - None

ANNOUNCEMENTS OF BOARDS AND COMMISSION OPENINGS

Mayor Freitas announced the following openings:

Board of Administrative Appeal - 1 unexpired term, Deadline to apply March 21, 2008

Board of Building Appeals - 3 new terms, Deadline to apply February 22, 2008

Parks and Recreation Commission – 3 expired terms of office and 1 unexpired term of office.

Filing deadline was March 21, 2008

Contact information was given for anyone wishing to apply.

PUBLIC COMMENTS

Bob Oliver, Antioch resident, expressed his concern the Neighborhood Improvement Services and Community Action Team were operating on a complaint driven system and suggested the policy be changed.

Ken Lee, Antioch resident, suggested the City consider developing a Citizen Police Academy and Town Hall Meetings to build a better understanding between Antioch Police Department and the citizens of Antioch. Regarding the new community center, he suggested the programs offered include a bike safety program and computer lab. Furthermore, he suggested a bin for speaker cards in Council Chambers. He questioned the location of the trash receptacles of two local businesses, stating he felt they were not properly concealed from public view.

Emil Stein, Antioch resident, reiterated his concerns related to the unloading of vehicle transports on Auto Center Drive.

Trisha Meikle, Antioch resident, commended Mayor Freitas for voicing his opposition to the Board of Supervisors regarding the prison being cited in Antioch.

COUNCIL RESPONSE TO PUBLIC COMMENTS

Councilmember Moore urged the City Manager and City Council to consider Mr. Lee's suggestions as they pertain to building better relationships between the Antioch Police Department and citizens of Antioch. He offered to work with Mr. Lee to build those programs.

1. COUNCIL CONSENT CALENDAR

A. APPROVAL OF COUNCIL MINUTES FOR JANUARY 8, 2008 #301-02

B. APPROVAL OF COUNCIL WARRANTS #401-01

C. APPROVAL OF TRAVEL POLICY MODIFICATION #401-02 — *Continued*

D. LEGISLATION AND ADVOCACY #701-04

E. REJECTION OF CLAIMS #704-07

1. Marvetia "Lynn" Richardson, 07/08-1747A (civil rights, personal injury, property damage)
2. Latoya Norman, 07/08-1747B (civil rights, personal injury)
3. Samonia Nelson-Calip, 07/08-1747C (civil rights, personal injury)
4. Kandis Calip, 07/08-1747D (civil rights, personal injury)
5. Thomas David Coleman, 07/08-1796A (civil rights, personal injury)
6. Karen Latreece Coleman, 07/08-1796B (civil rights, personal injury)

F. RESOLUTION NO. 2008/13 SUPPORTING SUTTER DELTA MEDICAL CENTER AND URGING CONTRA COSTA COUNTY TO ENHANCE MEDICAL SERVICES IN EAST CONTRA COSTA COUNTY #1405-01

G. RESOLUTION NO. 2008/14 DIRECTING ENGINEER OF WORK TO PREPARE CONSOLIDATED REPORT FOR THE ANNUAL LEVY OF ASSESSMENTS FOR LANDSCAPING DISTRICTS FOR FY 2008/2009 #806-03

H. EXTENSION OF LICENSE AGREEMENT WITH ROBERT KARP FOR BASES LOADED RESTAURANT PROJECT, 4TH & "G" STREETS #901-01

I. RECONSIDERATION OF BIDS FOR THE ADDITIVE BID ITEM NO. 1 FOR LONE TREE WAY INTERSECTION IMPROVEMENTS (P.W. 555-12A) #1102-04

J. CONSIDERATION OF BIDS FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT DOWNTOWN ROADWAY PAVEMENT REHABILITATION (P.W. 678) #1102-04

K. AUTHORIZATION TO ENTER INTO A CONTRACT WITH CIRCLEPOINT TO PREPARE THE ENVIRONMENTAL IMPACT REPORT FOR THE RODDY RANCH PROJECT #202-02

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

Item A – Councilmember Simonsen amended the minutes of January 8, 2008, page 5, last paragraph, last sentence to read: “Additionally, he noted he was the Chairperson of the California Delta Project Commission.”

On motion by Councilmember Simonsen, seconded by Councilmember Davis the City Council unanimously approved the minutes of January 8, 2008 as amended.

Item C – At the request of staff the item was continued to a future date.

Item H – Bob Oliver expressed his concern the project was not moving forward and suggested the City invest incentive monies for development north of the railroad tracks.

Councilmember Simonsen clarified there was no plan for a restaurant facility adjacent to the ferry terminal. Furthermore, the project’s delay was not due to the actions of the developer.

On motion by Councilmember Simonsen, seconded by Councilmember Davis the City Council unanimously approved item H.

ADDED: URGENCY AGENDA ITEM FOR ACTION

Direct staff to write a resolution expressing the City of Antioch position regarding the proposed jail site Prison in Sand Creek area.

Mayor Freitas reported the Board of Supervisors had unanimously approved studying all options for locating a prison site in the Sand Creek Area. Speaking both on the behalf of, as well as at behest of the entire Antioch City Council, he wanted to make it perfectly clear, Council’s unanimous consensus was the placing of the proposed prison facility in Antioch would be entirely inappropriate. Furthermore, it was unanimously felt the Marsh Creek site would be more appropriate based on several facts, including its remote location, the existing infrastructure and the fact it would not negatively impact any city in Contra Costa County. Therefore, he recommended directing City Staff to prepare a resolution expressing the sense of the City Council to the Board of Supervisors in opposition to locating the facility in the community.

Councilmember Simonsen agreed with Mayor Freitas, stating he felt the project would be better located at Cummings Skyway and Highway 4.

Councilmember Moore agreed the Antioch site was inappropriate and stated he would be supporting the proposed resolution. He discussed the importance of rehabilitation in reducing crime in Contra Costa County.

Councilmember Davis agreed with the previous speakers and agreed the Marsh Creek site would be more appropriate.

Devi Lanphere, representing the Antioch Chamber of Commerce, stated the Chamber was in full support of the City Council’s effort to have the City of Antioch permanently removed from

the list of site options for the proposed prison. She urged residents to write the Supervisors voicing their opposition to the project.

Jim Conley, former Councilmember and Antioch resident, voiced his support of the City Council's efforts to have Antioch removed from the list of site options for the proposed prison and suggested sending a satellite photo to the Board of Supervisors indicating the proximity of this site to High School properties and Kaiser Hospital.

Councilmember Kalinowski expressed his concern regarding the lack of information and representation from Supervisor Glover's office and suggested a letter be sent to him regarding the City's expectations on his service to the community.

RESOLUTION NO. 2008/18

On motion by Councilmember Kalinowski, seconded by Councilmember Davis the City Council unanimously: 1) Authorized Mayor Freitas, on behalf of the City Council, to work with staff to draft a strongly worded resolution to the Board of Supervisors raising Council's objections to the possibility of locating said prison facility in the Antioch community, including an aerial photo showing the relationship of the property to the High Schools and Kaiser Hospital; 2) Said correspondence would be directed from Mayor Freitas to Supervisor Glover, clearly defining the expectations of the City of Antioch, to receive communication directed to the elected officials and/or to City staff would occur proactively, particularly with issues of a controversial nature, and; 3) That the City of Antioch website list this item and all the email addresses for the Board of Supervisors so citizens can send their feelings about the issue to the other members.

PUBLIC HEARING

2. SUNSET EXPLORATION IS REQUESTING A CHANGE TO THE EXISTING "S" STUDY ZONE AND APPROVAL OF A USE PERMIT TO ALLOW DRILLING AND OPERATING AN OIL/GAS WELL AS A TEMPORARY USE ON A 158 ACRE PARCEL LOCATED SOUTH OF THE EXISTING HOMES ON MAMMOTH WAY, WEST OF DEER VALLEY ROAD, AND EAST OF EMPIRE MINE ROAD APPROXIMATELY 1500 FEET SOUTH OF THE BACK FENCES OF THE HOMES FRONTING MAMMOTH WAY #202-10

Community Development Deputy Director Carniglia presented the staff report dated February 5, 2008 recommending the City Council: 1) Approve the resolution adopting the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan for the Study District ("S") Municipal Code Amendment and Sunset Oil and Gas Well Project; 2) Introduce the ordinance by title only; 3) Introduce the ordinance amending Section 9-5.3802 and adding Section 9-5.3804 of the Antioch Municipal Code related to oil drilling in the "S" Study District, and; 4) Adopt resolution approving a Use Permit for a gas/oil well as a Temporary Use as requested by the applicant, subject to the conditions contained in the attached resolution.

Mayor Freitas requested Section 2 (B) (3) (i) be amended to read *"That an oil/gas well shall only..."*

Mayor Freitas opened the public hearing.

Bob Nunn, Sunset Exploration, Inc. briefly summarized their request for a zoning amendment and use permit to drill and operate a gas/oil well in the Sand Creek Focus area. Additionally, he discussed their public outreach to neighboring property owners and efforts taken to mitigate their concerns.

In response to Councilmember Simonsen, Mr. Nunn stated he would agree with amending the ordinance and suggested using the amendment to section 2, as previously discussed.

Walt Bartlett, Antioch resident, spoke in opposition to the project noting he did not feel his concerns regarding noise and traffic had been sufficiently mitigated. Additionally, he felt the applicant should provide a community benefit to Antioch.

Skip Spiering gave a brief history of the property, voicing his support of the project moving forward, as an interim use of the land. He urged the City Council to support the project.

Ken Lee questioned how the noise from the drilling and well operation would be mitigated.

Robia Chang, Attorney representing Miller Starr, Regalia and the Zocchi Company, stated the amended version of the ordinance they had received earlier this evening, had a significant change. She requested language be added clarifying the oil and gas well was specific to this parcel, as a temporary use.

City Attorney Nerland suggested the following language to *Section 2 (3) (a) Oil/Gas wells are not allowed as either a temporary or permanent use on any other properties within the Sand Creek Focus Area.*

REBUTTAL

Bob Nunn stated the guidelines were in place to prevent negative impacts from this project. He stated there may be a possibility of moving their operation south to increase the distance from the neighbors to the north; if so, he requested staff be allowed the flexibility to approve the move.

Mayor Freitas closed the Public Hearing.

Mayor Freitas stated he would be supporting this as a temporary use noting he felt the impacts had been properly mitigated.

RESOLUTION NO. 2008/15
RESOLUTION NO. 2008/16

On motion by Councilmember Simonsen, seconded by Councilmember Moore the City Council unanimously: 1) Approved the resolution adopting the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan for the Study District ("S") Municipal Code Amendment and Sunset Oil and Gas Well Project; 2) Introduced the ordinance by title only; 3) Introduced the ordinance amending Section 9-5.3802 and adding Section 9-5.3804 of the Antioch Municipal Code related to oil drilling in the "S" Study District, with the following

changes: *Section 3a* – That any oil/gas wells shall be subject to the approval of a use permit and be considered a Temporary Use and only be allowed at APN 057-021-003 located on the west side of Deer Valley Road. Oil/gas wells are not allowed as either a temporary or permanent use on any other properties within the Sand Creek Focus Area and *Section 3i* – “That an oil/gas well *shall* only” 4) Adopt the resolution approving a Use Permit for a gas/oil well as a Temporary Use as requested by the applicant, subject to the conditions contained in the resolution.

COUNCIL REGULAR AGENDA

3. INFORMATION ON FORECLOSED PROPERTIES AND PROPOSED MUNICIPAL CODE AMENDMENTS RELATED TO PROPERTY MAINTENANCE; ABANDONED, UNSECURED OR PARTIALLY CONSTRUCTED BUILDINGS; AND VACANT LOTS USED FOR ILLEGAL DUMPING 701-05

City Attorney Nerland presented the staff report dated February 5, 2008, recommending the City Council: A) Approve the reading of the ordinance by title only; and B) Introduce the ordinance amending Title 5, Chapter 2, Articles 1 and 2 of the Municipal Code, Related to Property Maintenance; Abandoned, Unsecured or Partially Constructed Buildings; and Vacant Lots Used for Illegal Dumping

Devi Lanphere, representing Antioch Chamber of Commerce, and Ralph Garrow Jr. spoke in support of the ordinance and urged City Council’s approval.

In response to Mr. Garrow, Ryan Graham clarified residences were held to the codes adopted for the area in which they were constructed, with the exception of major upgrades and remodels safety issues.

Councilmember Moore voiced his support of the ordinance and urged those involved to be sensitive to those residents who were losing their homes to foreclosures.

Councilmember Simonsen thanked City Attorney Nerland for the detailed staff report.

On motion by Councilmember Simonsen, seconded by Councilmember Davis, the City Council unanimously: A) Approved the reading of the ordinance by title only; and B) Introduced the ordinance amending Title 5, Chapter 2, Articles 1 and 2 of the Municipal Code, Related to Property Maintenance; Abandoned, Unsecured or Partially Constructed Buildings; and Vacant Lots Used for Illegal Dumping

4. PROPOSED REORGANIZATION OF THE COMMUNITY DEVELOPMENT NEIGHBORHOOD IMPROVEMENT/RENTAL INSPECTION PROGRAMS #203-04

Community Development Director Brandt presented the staff report dated January 24, 2008, recommending the City Council authorize the addition of one new Neighborhood Improvement Manager position and the elimination of one existing Neighborhood Coordinator position in the Community Development Department.

On motion by Councilmember Kalinowski, seconded by Councilmember Moore, the City Council unanimously authorized the addition of one new position, Neighborhood Improvement Manager, and the elimination of one existing Neighborhood Coordinator position in the Community Development Department.

5. PREWETT WATER PARK GENERAL ADMISSION FEE INCREASE #1402-03

Leisure Services Deputy Director Sanderson presented the staff report dated February 13, 2008 recommending the City Council adopt the resolution.

Councilmember Kalinowski stated he was opposed to increasing the general admission fees and felt the salary adjustments should be funded through a General Fund.

RESOLUTION NO. 2008/17

On motion by Councilmember Moore, seconded by Councilmember Davis, to adopt the resolution as presented carried by the following vote:

Ayes: Freitas, Simonsen, Davis, Moore

Noes: Kalinowski

Mayor Freitas declared a recess at 8:40 P.M. The meeting reconvened at 8:53 P.M. with all Councilmembers present

6. TWO YEAR BUDGET FORMAT FOR THE 2008-2010 BUDGET #410-02

Finance Director Merchant presented the staff report dated January 17, 2008, recommending the City Council direct staff to proceed with the development of a two year budget.

Councilmember Simonsen stated he had a vacation planned for April and requested to be excused from any meetings missed during said time. Additionally, he requested budget materials given to Council during that time be emailed to him. He further requested a 6 month review and the use of line details where possible.

On motion by Councilmember Simonsen, seconded by Councilmember Moore, the City Council unanimously directed staff to proceed with the development of a two year budget.

Councilmember Kalinowski reported he would be unable to attend the April 8, 2008 City Council meeting.

PUBLIC COMMENTS - None

STAFF COMMUNICATIONS

City Manager Jakel announced there would be a City Council meeting on February 19 and 26, 2008. The focus on the February 19, 2008 meeting would be a discussion on the Prewett Park project and the Juvenile Curfew Ordinance. He suggested the City Council members review

their calendars for a date to schedule the next Quality of Life Forum, to be finalized on February 19, 2008.

COUNCIL COMMUNICATIONS

Mayor Freitas announced segment 1 of the Highway 4 Bypass would be opening this weekend.

In response to Councilmember Moore, City Manager Jakel stated he would provide information regarding Black History Month events that were occurring locally.

Councilmember Simonsen requested the meeting be adjourned in memory of Jack Smith.

Mayor Freitas preliminarily adjourned the meeting to Closed Session in memory of Jack Smith.

CLOSED SESSIONS

- 4. CONFERENCE WITH LABOR NEGOTIATOR** – Agency Designated Representative: Human Resources Director. Employee Organization: Public Employees Union, Local #1. This Closed Session is authorized by Government Code §54957.6.
- 5. CONFERENCE WITH LABOR NEGOTIATOR** – Agency Designated Representative: Human Resources Director. Employee Organization: APSMA (Antioch Police Sworn Management Association). This Closed Session is authorized by Government Code §54957.6.
- 6. PUBLIC EMPLOYEE PERFORMANCE EVALUATION.** Title: City Manager. This Closed Session is authorized by Government Code §54957.
- 7. PUBLIC EMPLOYEE PERFORMANCE EVALUATION.** Title: City Attorney. This Closed Session is authorized by Government Code §54957.

ADJOURNMENT

With no further business, Mayor Freitas adjourned the meeting at 10:35 P.M. to the next adjourned regular Council meeting on February 19, 2008.

Respectfully Submitted

L. JOLENE MARTIN, CMC
City Clerk