

ANTIOCH CITY COUNCIL

Regular Meeting
7:00 P.M.

March 11, 2008
Council Chambers

5:30 P.M. - CLOSED SESSION

1. 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

2, CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION – This Closed Session is authorized by California Government Code §54956.9(a). 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.; SPPI-Somersville, Inc. et al. v. TRC Companies, Inc. et al, Case No. C04-2648 SI, United States District Court, Northern District of California.

Mayor Freitas called the meeting to order at 7:05 P.M., and City Clerk Martin called the roll.

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

Mayor Freitas announced Councilmember Moore was excused due to his participation at a Transportation Conference in Washington D.C.

PLEDGE OF ALLEGIANCE

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

Mayor Freitas reported the City Council had been in Closed Session and there was no reportable action.

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Nancy Brandt, on behalf of Wayne Steffen, herself, and the numerous volunteers who participated in building the Community Playground, invited the public to attend the Grand Opening of the playground scheduled for April 5, 2008 at 12:00 P.M. She announced etched bricks and tiles for making hand prints would be available to purchase.

Mayor Freitas, on behalf of the City and Council thanked Ms. Brandt, Mr. Steffen and all those involved in making the playground become a reality.

Barbara Sobalvarro, Friends of Animal Services President, speaking on behalf of animals announced their spring adoption days would be taking place March 17-24, 2008. Additionally, they would be hosting a Spring Hospitality Day on March 22, 2008 from 11:00 A.M – 2:00 P.M. at the Antioch Animal Shelter. Contact information was given for anyone wishing to receive additional information.

ANNOUNCEMENTS OF BOARDS AND COMMISSION OPENINGS

City Clerk Martin announced the following openings:

Parks and Recreation Commission – 3 expired terms and 1 unexpired term of office
Filing deadline was March 21, 2008

Contact information was given for anyone wishing to apply.

PUBLIC COMMENTS

Nancy Brandt reported she had served as Team Captain of the Mayors Team for *Relay For Life* for the past five years; she introduced Crime Prevention Commissioner Hans Ho would replace her as the new Captain.

Hans Ho spoke to his personal experience and having been diagnosed with Cancer. He announced the American Cancer Society was hosting the *Relay for Life on June 21-22, 2008* to raise funds for research. He appealed to all Council, Board, Commission members and staff to participate in the Relay for Life event. He provided the City Council with instructions for signing up for the event.

Chip Stein, Antioch resident, stated he felt the City was in violation of federal law to be in compliance with the ADA as it related to City buildings.

Ken Lee, Antioch resident, supported an urgency ordinance to restrict paraphernalia sales at Cigarette Stores. He suggested Cigarette Stores participate in the We Card Program.

Gary Agopian, Antioch resident, stated he looked forward to working with the Council, public and County to create safe neighborhoods, protect home values, enhance education outcomes, end the transportation issues and protect the environment. Additionally, he noted he was advocating for fiscal realism.

COUNCIL RESPONSE TO PUBLIC COMMENTS - None

1. COUNCIL CONSENT CALENDAR

A. APPROVAL OF COUNCIL MINUTES FOR FEBRUARY 13, 2008 (#301-02)

B. APPROVAL OF COUNCIL WARRANTS (#401-01)

C. LEGISLATION AND ADVOCACY (#701-04)

- D. **ORDINANCE NO. 2013 C-S REZONING APPROXIMATELY 38 ACRES, COMPRISING THE DEER VALLEY ESTATES MASTER PLAN FROM STUDY ZONE (S) TO THE PLANNED DEVELOPMENT DISTRICT (PD) BOUNDED BY DEER VALLEY ROAD, WELLNESS WAY AND KAISER HOSPITAL (APN 057-022-013), FILE: MDP-06-02 (#202-03)**
- E. **CITY MANAGER'S EMPLOYMENT AGREEMENT (#502-01)**
- F. **CITY ATTORNEY'S EMPLOYMENT AGREEMENT (#502-01)**
- G. **RESOLUTION NO. 2008/26 ACCEPTING WORK AND AUTHORIZING CITY ENGINEER TO FILE A NOTICE OF COMPLETION FOR THE WATER TREATMENT PLANT SOLIDS HANDLING FACILITIES AND PLANT B EXPANSION (P.W. 551-4) (#1202-01)**
- H. **REQUEST FOR OVERNIGHT TRAVEL (TWO NIGHTS) TO THE LEAGUE OF CALIFORNIA CITIES FOR 5 PLANNING COMMISSIONERS (#301-01)**
- I. **AGREEMENT FOR PROCUREMENT AND DELIVERY OF SOIL MATERIAL FOR THE MARKLEY CREEK REMEDIATION #814-01**
- J. **RESOLUTION NO. 2008/27 ACCEPTING COMPLETED IMPROVEMENTS FOR BLACK DIAMOND RANCH UNIT 2, TRACT NO. 8585, PW 512-2 (DISCOVERY BUILDERS) (#802-02)**
- K. **RESOLUTION NO. 2008/28 ACCEPTING COMPLETED IMPROVEMENTS FOR BLACK DIAMOND RANCH UNIT 3, TRACT NO. 8586, PW 512-3 (DISCOVERY BUILDERS) (#802-02)**

On motion by Councilmember Davis, seconded by Councilmember Simonsen, the Council unanimously approved the Council Consent Calendar.

PUBLIC HEARINGS

- 3. **ALMONDRIDGE HOME SIZE MODIFICATIONS / KB HOMES SOUTH BAY, INC. REQUESTS APPROVAL OF MODIFICATIONS TO THE SINGLE FAMILY HOME PRODUCTS AT THE 81 UNIT ALMONDRIDGE DEVELOPMENT LOCATED ON THE EAST SIDE OF PHILLIPS LANE, APPROXIMATELY 700 FEET SOUTH OF EAST EIGHTEENTH STREET (APN: 051-200-015 AND 051-200-053) ON FEBRUARY 20, 2008 THE PLANNING COMMISSION VOTED 5-2 TO RECOMMEND DENIAL TO AMEND THE USE PERMIT TO MODIFY THE SINGLE FAMILY HOME PRODUCTS AT ALMONDRIDGE FILE: UP-04-30 (#202-10)**

On motion by Councilmember Simonsen, seconded by Councilmember Davis, the City Council members present unanimously continued the item to March 25, 2008.

Mayor Freitas declared a recess at 7:24 P.M. The meeting reconvened at 7:31 P.M. with all Councilmembers present with the exception of Councilmember Moore who was excused.

- 2. HILLCREST SUMMIT / BEDROCK VENTURES, INC. REQUESTS APPROVAL OF A PLANNED DEVELOPMENT REZONE AND USE PERMIT FOR A MIXED USE DEVELOPMENT CONSISTING OF RETAIL AND OFFICES 15,000 S.F. OF RETAIL AND 35,000 S.F. OF OFFICES ON FIVE (5) ACRES LOCATED APPROXIMATELY 250 FEET SOUTH OF THE INTERSECTION OF HILLCREST AVENUE AND EAST TREGALLAS ROAD. (APN'S: 052-100-055 AND -056). ADOPTION OF A MITIGATED NEGATIVE DECLARATION WILL ALSO BE CONSIDERED. ON JANUARY 16, 2008 THE PLANNING COMMISSION VOTED 7-0 TO RECOMMEND ADOPTION OF THE MITIGATED NEGATIVE DECLARATION, MITIGATION MONITORING AND REPORTING PLAN, APPROVAL OF THE PLANNED DEVELOPMENT REZONE AND USE PERMIT. FILE: PD-06-04, UP-06-21, AR-06-17, S-08-01 (#202-03)**

Mayor Freitas announced Councilmember Kalinowski had indicated he had a conflict of interest with the item and would recuse himself from the item. Councilmember Kalinowski left the dais.

Associate Planner Gentry presented the staff report dated March 7, 2008 recommending the City Council: 1) adopt the Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program; 2) introduce the ordinance by title only; 3) introduce the ordinance rezoning 4.94 acres making up the project site to the Planned Development District (PD); and, 4) adopt the resolution approving the Final Development Plan and Use Permit.

Mayor Freitas opened the Public Hearing.

Ted Lui, applicant, introduced himself and his associates.

William Wood, Project Architect, gave a brief history of the project and explained the architectural design of the building plan.

Jim Diggins, Civil Engineer, reported they had prepared the preliminary grading and drainage plan as well as the C3 drawing in compliance with standard codes.

Mr. Lui stated he was in agreement with all project specific conditions except #74, which limits the office use to medical.

Mayor Freitas closed the public hearing.

In response to Mayor Freitas, Associate Planner Gentry stated in terms of the retail building the applicant had indicated he was going to attempt to do his best to bring in "high-end" tenants. Furthermore, in terms of restricting Check Cashing establishments, the Council could put a restriction on that specific use.

Mayor Freitas stated he was willing to put a moratorium on all PD development until the City Council resolved the issue.

Associate Planner Gentry clarified the applicant could provide enough parking for 12,465 s.f. of medical offices and if the applicant wanted more medical office space, he could request a variance.

Mayor Freitas stated as a policy issue, he was opposed to compact parking spaces.

Councilmember Simonsen requested the wording in Project Specific Condition #62 indicating the light standards shall be limited to less than 25 feet.

City Attorney Nerland, addressing *Attachment "C" Antioch Commons - Proposed Uses*, indicated should Council object to a specific use, they could call the use out and subject it to a use permit.

Mr. Lui stated he would not object to specifically prohibiting tobacco stores, check cashing and adult boutiques noting it was his intent to bring in higher classed tenants.

Councilmember Simonsen stated he would support granting a variance for parking to allow for more medical office uses.

Mayor Freitas stated he would oppose granting of a variance as he felt the City codes should be adhered to as adopted:

- Prohibit retail establishments that primarily sells tobacco, tobacco related products and paraphernalia
- Prohibit check cash store
- Eliminate Variety Store
- Prohibit Adult Boutiques

Mayor Freitas declared a recess at 8:17 P.M. The meeting reconvened at 8:21 P.M. with all Councilmembers present, with the exception of Councilmember Moore who was excused, and Councilmember Kalinowski who had recused himself from the item.

Mr. Lui acknowledged the changes to conditions # 70, 78(b), 78(c), and 79 as indicated on the memorandum dated March 11, 2008 as being acceptable.

RESOLUTION NO. 2008/29

On motion by Councilmember Simonsen, seconded by Councilmember Davis the City Council 1) adopt the Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program; 2) introduce the ordinance by title only; and, 3) introduce the ordinance rezoning 4.94 acres making up the project site to the Planned Development District (PD); and, 4) adopt the resolution approving the Final Development Plan and Use Permit. With the amendments submitted by staff dated March 11, 2008 to project specific conditions #70, 78(b), 78(c), and 79 and project specific condition #77 revised to read:

#77 The applicant shall submit a revised Master Use List as directed by the City Council which shall be reviewed and approved by staff prior to the issuance of the certificate of occupancy, with such list attached and incorporated as exhibit "A" Permitted Uses in the conditions of approval.

- Prohibit retail establishments that primarily sells tobacco, tobacco related products and paraphernalia
- Prohibit check cash store
- Eliminate Variety Store
- Prohibit Adult Boutiques

The motion carried by the following vote:

Ayes: Freitas, Simonsen, Davis

Absent: Moore

Recused: Kalinowski

COUNCIL REGULAR AGENDA

4. INFORMATIONAL PRESENTATION ON YOUTH INTERVENTION NETWORK #1301-01

Chief Hyde presented the staff report dated March 4, 2008 recommending the City Council receive and file the report.

Iris Archeletta reported Dr. Simms, Superintendent of Antioch Schools, was unable to attend the meeting, due to a conflicting obligation. She gave a brief overhead presentation of the Youth Intervention Network – A Comprehensive Strategy for Antioch and East County updating the following items:

- Network growth
- Funding and partnerships
- Philosophical approach
- Community and Agency Facilitation
- Data collection and case management methodology
- Data collection progress and commitments

Councilmember Kalinowski stated he was impressed, adding the information presented had provided some optimism there would be progress in the community. He voiced his appreciation to Iris and Keith Archeletta for their dedication to the program and offered his support.

Councilmember Davis thanked Ms. Archeletta for the presentation and stated he had faith the program would succeed.

Councilmember Simonsen suggested the program consider youth attending Antioch schools but live in other cities as well as youth living in Antioch who had issues in other jurisdictions. He spoke in support of the YIN and strategies set forth.

Chief Hyde commented it was a system wide approach through the various stakeholders to address youth in crisis. He noted they had developed a strategy to maintain confidentiality and collect data to address those issues.

Mayor Freitas voiced his support for the program. He expressed concern regarding the sustainability of the program and requested an action plan for the 5-10 year period of time. He suggested bringing in the business community who may be a resource financially and through job creation. Additionally, before expansion, he suggested the program focus on Antioch.

Ms. Archeletta reported they were currently working on a long term plan for sustainability.

Chief Hyde reported the program was being developed to work in Antioch before expanding to other jurisdictions. He discussed the involvement of Vespers in the program.

PUBLIC COMMENTS - None

STAFF COMMUNICATIONS

City Manager Jakel announced the Quality of Life Forum would be held on March 29, 2008 at the Nick Rodriguez Community Theater from 9:00 A.M - 12:00 P.M.

City Attorney Nerland announced the City would be holding Ethics Training on September 16, 2008; anyone wishing to take the course online may do so through the League of California Cities.

Mayor Freitas requested City Attorney Nerland email a reminder of the Ethics Training to the City Council.

COUNCIL COMMUNICATIONS

Councilmember Simonsen reported he had emailed the City Council and staff a report from the Legislative Analyst Office regarding Governor Schwarzenegger's proposal on the Delta, which could have an impact on Antioch and neighboring Cities.

Councilmember Kalinowski stated he may bring a request to agendize a resolution in opposition to the ruling on the Home Based Schooling.

In response to Mayor Freitas, City Manager Jakel reported there would be a Study Session scheduled for April 15, 2008.

With no further business, Mayor Freitas adjourned the meeting at 9:04 P.M. to the next regular Council meeting on March 25, 2008.

Respectfully submitted:

L. JOLENE MARTIN, CMC
City Clerk