

**ANTIOCH CITY COUNCIL
ANTIOCH DEVELOPMENT AGENCY**

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

**January 23, 2001
Council Chambers**

6:00 P.M.

ROLL CALL for Closed Sessions

CLOSED SESSIONS CONFERENCE WITH REAL PROPERTY NEGOTIATOR.

Property:

1. **"Chow property,"** APN's 066-041-004, 066-055-001. Negotiating parties: City of Antioch (buyer) and Curtis L. Johnson, representing sellers. Under negotiation: instruction to negotiator will concern price.
2. **"Arata property,"** 1307 W. 4th Street, 1311 W. 4th Street. Negotiating parties: City of Antioch (buyer) and David Thomas, representing sellers. Under negotiation: instruction to negotiator will concern price.

These closed sessions are authorized by Government Code §54956.8.

3. **CONFERENCE WITH LEGAL COUNSEL:** Existing litigation. In the matter of Southern Energy Company's application to the California Energy Commission for a power plant near Antioch. This closed session is authorized by Government Code §54956.9.

Mayor Freitas called the meeting to order at 7:08 P.M., and City Clerk Martin called the roll with all members present.

PLEDGE OF ALLEGIANCE

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

Mayor Freitas reported on the Antioch Chamber of Commerce's annual dinner held January 20, 2001 and noted John Slatten from East County Insurance was honored as the *Businessman of the Year* and Compy Compomizzo as *Citizen of the Year*. The Chairman's Award went to the Chamber of Commerce CEO, Nancy McCaffrey.

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Jean Kuberra reported she had attended a public meeting regarding the Los Medanos Energy Center amendment in Pittsburg. She expressed concern the studies were not conducted on humans to determine the impact increasing the generating output would have on health.

PUBLIC COMMENTS

Al Perez requested an agenda item regarding the proposed rate increases at the Lone Tree Golf Course. Due to their ages (70+) he requested the item be placed first on the agenda. He presented Mayor Freitas with a copy of his proposal to the golf course.

Mayor Freitas directed staff to place this item on the February 13, 2001 agenda as early as possible.

Paul Goulart reminded the community of the public forum on his website www.cybercouncil.aol.com and encouraged participation from citizens, Council and businesses. He provided Mayor Freitas with e-mail.

Elvin Scott discussed the DAV nonprofit association and the services it provides to veterans and their families. He updated the Council on his efforts to protect pension funds.

Bart Sandborn invited the community to attend the 2001 Crime Prevention-Emergency Preparedness Faire at the County East Mall on February 3, 2001 from 10:00 A.M. to 4:00 P.M.

Michael Malody announced the Antioch Mayor's Prayer Breakfast on April 5, 2001 from 7:00 to 9:00 A.M. at Humphrey's. He provided contact numbers for those wishing to attend.

Jean Kuberra continued her previous comments regarding the California Energy Commission discussion on the potential health impact from increasing the generating output of the Calpine facility. She congratulated Gale Bishop for her light jail sentence pertaining to her conviction as a public official, of using her agency staff for personal political purposes.

Roy Edmark expressed concern regarding the City and what it was doing to conserve energy in lighting the City. He suggested reducing by half, the number of street and park lights.

Mayor Freitas directed staff to review and take appropriate action to conserve energy. Public Works Director Brandt updated the Council on the efforts to reduce the City's consumption of energy, adding City staff would be meeting on January 24, 2001 to consider further options to reduce the City's power consumption.

Mr. Edmark stated he felt it was important for the City to set an example for the residents.

COUNCIL REGULAR AGENDA

City Manager Ramsey requested the City Council add an item to the agenda clarifying the issue had arose after the agenda was printed, adding Council action was needed prior to

the next meeting. He stated the item would be a brief report and consideration of an economic development grant application to help bring jobs to the City and deal with the existing jobs-housing imbalance. In response to Councilmember Kalinowski, City Attorney Galstan explained the criteria necessary to place an item on an agenda after posting: 1) the information was received by the City after the agenda was posted; and, 2) there was a need to take action before the next meeting.

On motion by Councilmember Conley, seconded by Councilmember Davis the Council unanimously added agenda item *1a. Jobs/Housing Balance Improvement Program Grant Application.*

1. RESOLUTION DIRECTING ENGINEER OF WORK TO PREPARE CONSOLIDATED REPORTS FOR THE ANNUAL LEVY OF ASSESSMENTS FOR STREET LIGHTING AND LANDSCAPE DISTRICTS #806-03

Public Works Director Brandt presented the staff report dated January 17, 2001, recommending the Council adopt the resolution directing the engineer to prepare the two engineer reports.

RESOLUTION NO. 2001/06

On motion by Councilmember Kalinowski, seconded by Councilmember Davis, the Council unanimously adopted the resolution.

1A. JOBS/HOUSING BALANCE IMPROVEMENT PROGRAM GRANT APPLICATION

Economic Development Director Naffah reviewed the Jobs/Housing Balance Improvement Program noting \$4.8M was available for various eligible cities. He stated the purpose of the grant was to attract new businesses and jobs to cities lacking sufficient employment base in relation to housing. He noted the application for \$100,000 from the California Department of Housing and Community Development would require the City to provide a cash match of \$10,000, indicating the matching funds would come from the City Manager's special projects fund. City Manager Ramsey stated staff was recommending Council authorize the Mayor to sign a resolution on behalf of the City Council to adopt the program and authorize the allocation of the \$10,000 cash match.

In response to Councilmember Conley, Economic Development Director Naffah clarified the funds would be used in various forms to market Antioch and East County as well as updating the Economic Development Strategy. He noted it was a one-time grant and must be used within a two-year period and would require bi-annual reports detailing the achievements.

Jean Kuberra discussed the approach to economic development relative to the current website. She suggested the consideration of a consultant to handle the criteria regarding

the jobs/housing balance if the City was awarded the grant. She requested a review of the grant to assure it complies with legislation.

Mayor Freitas requested copies of legislation as well as the Grant application.

In response to Mayor Freitas, City Attorney Galstan stated discussion to add an item on the agenda it is not yet an agenda item therefore it does not require public comment.

On motion by Councilmember Conley, seconded by Councilmember Davis, the Council unanimously authorized Mayor Freitas to sign the required agreements to submit an application for a \$100,000 grant from the California Department of Housing and Community Development and authorize the \$10,000 matching funds be taken from the City Manager's special project fund.

PUBLIC HEARINGS

- 8. TAIT & ASSOCIATES, INC. / ARCO AM-PM REQUEST AN APPEAL OF THE PLANNING COMMISSION'S DENIAL OF A USE PERMIT AND MINOR SUBDIVISION FOR AN AUTOMOBILE SERVICE STATION (ARCO AM-PM) INCLUDING 2,800 SQUARE FOOT FOOD MART, TWO (2) COMMERCIAL BUILDINGS, EACH 7,200 SQUARE FEET IN SIZE, AND A MINOR SUBDIVISION TO CREATE A .8 ACRE SITE FOR THE AM/PM FACILITY FROM THE APPROXIMATELY 3 ACRE ORIGINAL SITE. THE PROJECT IS LOCATED ON THE WEST CORNER OF HILLCREST AVENUE AND WILDFLOWER DRIVE. FILE: UP-00-25/A #202-10**

Mayor Freitas stated it was recommended this item be continued to February 13, 2001.

On motion by Councilmember Conley, seconded by Councilmember Davis, the Council unanimously continued this item to February 13, 2001.

- 9. JANIE KAO REQUESTS AN APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF A VARIANCE TO CHAPTER 5, ARTICLE 6 OF TITLE 9 OF THE ANTIOCH MUNICIPAL CODE TO ALLOW A 5 FOOT REDUCTION IN THE REQUIRED FRONT YARD FROM 30 FEET TO 25 FEET, A 10 FOOT REDUCTION IN THE REQUIRED 20 FOOT SIDE YARD FOR BOTH STREET SIDES AND A 10 FOOT REDUCTION IN THE REAR YARD FROM THE REQUIRED 10 FEET TO 0 FEET. THE PROPERTY IS LOCATED AT 611 EAST EIGHTEENTH STREET. FILE: V-00-7 #202-11**

Community Development Director Ward presented the staff report dated January 16, 2001, recommending the City Council adopt the resolution denying this appeal, thereby upholding the decision of the Planning Commission to deny the Zoning Administrator's appeal and approve the applicant's (Prem Arora) request for a setback variance.

In response to Mayor Freitas, Associate Planner Oshinsky stated the 72-inch fence was a requirement of the Zoning Ordinance based on the interfacing of a commercial property with a residential property. City Attorney Galstan clarified should the Council consider the deletion of the fence it would be part of the variance approval.

Councilmember Conley stated he had been the Planning Commission Chairperson when this item was before them.

In response to Councilmember Davis, Community Development Director Ward stated he was not aware of any code enforcement issues regarding the apartment complex adding there was some deferred maintenance.

PROPONENT

David Bowie speaking on behalf of Janie Kao stated they believed granting the variance would deprive the residents of the apartment building of light and air. He suggested the building be moved off the rear property line. He added he felt there was no legal finding to support the granting of the 0-foot setback.

OPPONENT

Bernard Mosbacher, Architect for the project, discussed the design of the building stating a variance was needed to make the project meet the parking requirements and to make the project economically feasible. He noted in doing so, the building was pushed back to a 0-lot line making the apartment building 8' from the proposed project at the closest point. He provided the Council with photographs of the angle of the building noting they felt the impact on the apartment structure would be minimal. He clarified as Chairperson of the Design Review Board, he had excused himself from the meeting when this item was reviewed for approval. In response to Mayor Freitas, he stated a report was prepared in 1991 for soil contamination, noting the contaminants were deep, adding if they were found during construction there would be a recommendation to deal with them.

Councilmember Kalinowski and Mayor Freitas expressed their concern regarding a liquor store at this location. Community Development Director Ward clarified any requests for the liquor store would require a subsequent use permit through the Planning Commission.

Councilmember Kalinowski directed staff to investigate any code enforcement issues with the Kao property.

REBUTTAL

David Bowie requested Council's assurance the existing apartment building would not be negatively impacted by this proposed project. He noted he felt a finding had not been

made to support the 0-foot setback. He requested the Council not grant the variance and move the project off the rear property line.

Mayor Freitas closed the public hearing.

Following discussion, the Council agreed this project would be an enhancement to the City and the area created; if the building were moved off the property line it would create health and safety concerns.

City Attorney Galstan stated if the Council was inclined to approve the variance and deny the appeal he suggested the motion reflect the tentative decision of Council and instruct him to draft findings to support that decision to be brought back on the consent calendar to adopt the findings.

On motion by Councilmember Kalinowski, seconded by Councilmember Conley, the Council unanimously denied the appeal with direction to City Attorney Galstan to draft findings to support the variance to be brought back on the consent calendar February 13, 2001, and with the addition of a project specific condition #43 to read: That the apartment owner will have one year from the beginning of construction to determine if the need security lighting, which would be paid for by the applicant at a reasonable cost and the deletion of the 72-inch wood fence along the back of the building.

Mayor Freitas declared a recess at 8:45 P.M. The meeting reconvened at 8:58 P.M. with all Councilmembers present.

2. UPDATE ON THE FORMATION OF ARTS AND CULTURAL FOUNDATION OF ANTIOCH #1407-03

Assistant to City Manager Gegg presented the staff report dated January 18, 2001, recommending the City proceed with the formation of the Arts and Cultural Foundation of Antioch.

Councilmember Conley stated he was prepared to go forward with the foundation, adding if the foundation was not successful he was also prepared to revert to a Commission.

Councilmember Davis stated he was in support of the foundation going forward and requested Council consider conducting interviews for all Board and Commission positions in an open public forum with Council participating in the selection process. Mayor Freitas stated he was opposed to Councilmember Davis' request for consideration of the open forum selection process noting the voters granted the Mayor the right to conduct interviews and make recommendations for Council's consideration and it should be retained. He added this was a major policy issue and if considered all appointments would need to be held in abeyance until the issue was resolved. Councilmember Kalinowski requested additional information regarding the history involved in this process. Mayor Freitas requested this item be put on the February 13, 2001 agenda for discussion and directed

staff to inform the applicants for the Planning Commission, the interview process would be on hold until a decision defining the interview process had been made by the City Council.

Councilmember Simonsen stated he was in support of an open forum for the evaluation of the applicants to the various Boards and Commissions, noting he was opposed to the disbandment of the Civic Arts Commission and urged Council to reestablish it under the guidance of the City Council.

Mayor Freitas stated Jean Kuberra had provided written comments and requested her written statement be read into the public record for inclusion verbatim in the official City Council minutes for January 23, 2001 as follows:

I hereby request that the formation of an Arts and Cultural Foundation of Antioch be stopped. I base my request on the following excerpt from the California Government Code, The Ralph M. Brown Act in part:

Sec. 54952. Definition of legislative body,...As used in this chapter, "legislative body" means:

(a) the governing body of a local agency or any other local body created by state or federal statute.

(b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decision making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body....

(c) (1) A board, commission, committee or other multi-member body that governs a private corporation or entity that either:

(A) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to private corporation or entity....."

My understanding of the formation of the proposed foundation is that the meeting of the appointed board members would not come under the Brown Act open meeting law. Unless it is written specifically into any formation documents, I respectfully request that the formation project of the private foundation be discontinued, that is be terminated. Further, I hereby request that the Arts Commission be reinstated as an appointed member "legislative body" with appropriate authority to carry out the mission and activities accorded it."

Carmen Aguilar-Ochoa voiced her concerns regarding the disbandment of the Civic Arts and Cultural Commission and thanked the former members of the Commission. She urged the Council to use the word "cultural" in the title of the foundation as it reflected the diversity of the City as it is today.

Mayor Freitas stated the bylaws should reflect the "alternate member" is an "ex-officio" member appointed by the City Manager.

Councilmember Kalinowski requested any documentation on issues regarding the Civic Arts Foundation.

Councilmember Simonsen stated he would not support the formation of the foundation, citing concern for public inclusiveness and direct control.

On motion by Councilmember Conley, seconded by Councilmember Davis, the Council received the report and recommended proceeding with the formation of the Arts and Cultural Foundation replacing the wording "alternate member" with an "ex-officio" member.

The motion carried the following vote:

Ayes: Davis, Kalinowski, Conley and Freitas

Noes: Simonsen

3. CITY/COUNTY RELATIONS STEERING COMMITTEE ON HOUSING AND GROWTH MANAGEMENT #302-10

City Manager Ramsey presented the staff report dated January 18, 2001, recommending the City Council make an appointment for a representative and an alternate to the City/County Relations Steering Committee on Housing and Growth.

On motion by Councilmember Conley, seconded by Councilmember Simonsen, the Council unanimously approved the recommendation of Mayor Freitas as representative and Councilmember Kalinowski as alternate to the City/County Relations Steering Committee on Housing and Growth Management.

Jean Kuberra provided written comment stating she was opposed to additional burdens on Councilmembers and staff.

4. CONSIDERATION OF BIDS FOR CONSTRUCTION OF A PARKING LOT AT ANTIOCH COMMUNITY PARK (PW 394-7P) #1402-03

Public Works Director Brandt presented the staff report dated January 17, 2001, recommending the City Council award the contract for construction of a parking lot at Antioch Community Park to the low bidder in the amount of unit prices bid.

On motion by Councilmember Kalinowski, seconded by Councilmember Conley, the Council unanimously awarded the contract for the construction of a parking lot at Antioch Community Park to the low bidder in the amount of unit prices bid using "Attachment B."

5. REVIEW OF PARK SUBCOMMITTEE RECOMMENDATIONS #1402-03

Assistant City Engineer Bernal presented the staff report dated January 18, 2001, recommending the City Council consider the recommendations from the Parks and

Subcommittee and determine whether or not a Public Hearing would be necessary to finalize the ultimate disposition of the Meadow Creek Villages Park.

Following discussion, the Council agreed to separate the Meadow Creek Villages Park recommendation from the other recommendations in the staff report, and consider it separately.

Councilmember Conley stated he was opposed to 3-acre parks noting the cost for maintenance would be excessive.

Councilmember Kalinowski and Councilmember Simonsen commented given the small lot sizes of the surrounding homes and the proximity to multi-family housing, they felt it was necessary to provide a park for the residents.

Mayor Freitas stated homes had already been sold with an implied agreement a neighborhood park would be built. He further noted he was in agreement with Councilmember Conley, adding the issue could be addressed as the Council moves forward with a policy regarding larger regional and sub-regional park facilities.

City Attorney Galstan clarified the City could apply to change land use designations during a public hearing process adding the park had already been approved and if it was the Council's desire the park be constructed, no action was necessary.

On motion by Councilmember Simonsen, seconded by Councilmember Davis, the Council received and filed the Meadow Creek Villages Park recommendation to construct a 3-acre park. The motion carried the following vote:

Ayes: Davis, Kalinowski, Simonsen, and Freitas

Noes: Conley

Assistant City Engineer Bernal presented the Parkland Dedication and Payment of Fees, Trails, Future in-house Maintenance, Proposition 12 -2000 Bond Act, Future Park Size and Street Lighting and Maintenance District recommendations.

In response to Councilmember Simonsen, Assistant City Engineer Bernal stated staff would accomplish assessing the value of undeveloped land. Councilmember Simonsen stated he felt trails in open space should qualify for park-in-lieu fee reimbursement.

City Manager Ramsey stated the intent for this item was to provide Council with information and return at a later date with recommendations either as separate items or at the time Council would be considering policies impacted by the recommendations. He clarified Lighting and Landscaping would be discussed in February.

On motion by Councilmember Kalinowski, seconded by Councilmember Conley, the Council unanimously authorized the City Manager to appoint a City staff member and the

Parks and Recreation Commission to appoint a Park and Recreation Commissioner to track Proposition 12.

Councilmember Conley requested information on the financial impact items #2 – 5 would have on the City's budget. Mayor Freitas requested the Council be provided information on the procedure or criteria to be used in establishing the park assessment rates, policies on Parkland Dedication, Payment and Payment of Fees, Trails, Future In-House Maintenance and Future Park Size. This information was to be included in the staff report scheduled to be heard by Council in March, 2001.

On motion by Councilmember Kalinowski, seconded by Councilmember Davis, the Council unanimously received and filed the report.

6. DRAFT PRINCIPLES FOR AN INTERIM TREATED WATER SUPPLY WITH THE CONTRA COSTA WATER DISTRICT #1202-01

Public Works Deputy Director Harrington presented the staff report dated January 23, 2001, recommending the City Council approve the modified Draft Principles of Agreement, as resubmitted by the Contra Costa Water District to the City of Antioch, to provide an interim treated water supply from the District's portion of the Randall-Bold Water Treatment Plant and direct the Public Works Director to finalize the agreement.

In response to the Council, Public Works Deputy Director Harrington clarified the agreement was to provide the City with an interim treated water supply for emergency situations or as a last resort on an as needed basis. Public Works Director Brandt clarified the customers would not see an increase in water rates unless consumption was increased. Deputy Director of Public Works Harrington stated the cost for wear and tear on Treatment Plant facilities was built into the cost of the water.

Mayor Freitas requested staff provide Council with the letter from CCWD to John Tasker. He expressed concern regarding the language in the agreement related to the prorated value for wear and tear of the Treatment Plant facilities and compensation for interest costs. Public Works Deputy Director Harrington stated John Tasker had indicated he was completely satisfied with the proportionate share of the cost as it was related back to the City.

City Manager Ramsey expressed his concern regarding the water situation this summer adding he felt the City needed to get this item out to bid and constructed to insure the ability to provide water when it was needed.

On motion by Councilmember Kalinowski, seconded by Councilmember Conley, the Council approved the Modified Draft Principles of Agreement as resubmitted by the Contra Costa Water District and directed the Public Works Director to sign the agreement. The motion carried the following vote.

Ayes: Davis, Kalinowski, Conley and Simonsen

Noes: Freitas

7. LEGISLATION AND ADVOCACY #701-04

On motion by Councilmember Davis, seconded by Councilmember Conley, the Council unanimously received and filed the report.

COUNCIL CONSENT CALENDAR

- A. **APPROVAL OF COUNCIL MINUTES — January 9, 2001 #301-03**
- B. **APPROVAL OF COUNCIL WARRANTS #401-02**
- C. **TREASURER'S REPORT — November 2000 #401-02**
- D. **RESOLUTION NO. 2001/08 CREATING THE CLASSIFICATION SPECIFICATION FOR BUYER I/II AND DELETING THE CLASSIFICATIONS OF PURCHASING ASSISTANT AND BUYER #502-02**
- E. **RESOLUTION NO. 2001/09 ACCEPTING WORK AND AUTHORIZING THE CITY ENGINEER TO FILE A NOTICE OF COMPLETION FOR THE DEMOLITION AND REMOVAL OF BUILDINGS AND STRUCTURES AT VARIOUS LOCATIONS (PW 469-17) #1001-02**
- F. **RESOLUTION NO. 2001/10 APPROVING THE JOINT OPERATING AGREEMENT WITH THE City OF PITTSBURG FOR THE SOMERSVILLE ROAD UNDERGROUNDING PROJECT (PW 300-17) #1201-07**
- G. **RESOLUTION NO. 2001/11 APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE City CLERK TO ADVERTISE FOR BIDS FOR THE EAST 18TH STREET SANITARY SEWER PROJECT (PW 225-20S) #1102-04**
- H. **RESOLUTION NO. 2001/12 ADOPTING THE 1999 GROWTH MANAGEMENT COMPLIANCE CHECKLIST FOR THE SALES TAX/TRANSPORTATION INITIATIVE (MEASURE "C") #204-02**
- I. **RESOLUTION NO. 2001/13 AUTHORIZING A DEFERRED IMPROVEMENT AGREEMENT FOR HEIDORN RANCH ROAD, MEADOW CREEK VILLAGE, UNIT 5, SEENO COMPANY (PW 569-5) #802-02**

On motion by Councilmember Conley, seconded by Councilmember Simonsen, the Council Consent calendar was unanimously approved with the exception of item G, which was pulled for further discussion.

Item G — In response to Don Peckham, Public Works Director Brandt clarified the construction signs on East 18th Street belonged to CALTRANS and the City would not be moving forward with construction until there was a contract. He noted there would be discussions with the property owners regarding construction on East 18th Street.

On motion by Councilmember Conley, seconded by Councilmember Davis, the Council unanimously approved Item G.

PUBLIC COMMENTS

None

COUNCIL REPORTS/COMMUNICATIONS

Councilmember Davis reported on the League of California Cities conference, which he attended January 10–12 2001 with Councilmembers Simonsen and Conley. He stated the conference was well done and they had enjoyed the classes.

Mayor Freitas announced a Public Hearing at the Pittsburg City Council Chamber on January 30, 2001 at 7:00 P.M. regarding the East Central Traffic Management Study on the metering of Kirker Pass Road. He encouraged Councilmembers and commuters who use Kirker Pass to attend the meeting.

STAFF COMMUNICATIONS

None

ADJOURNMENT

With no further business, Mayor Freitas adjourned the meeting at 10:48 P.M. to the study session scheduled for February 6, 2001.

Respectfully Submitted:

s/s L. Jolene Martin
L. JOLENE MARTIN, City Clerk

Approved:

s/s Donald P. Freitas
DONALD P. FREITAS, Mayor

Attest:

s/s L. Jolene Martin
L. JOLENE MARTIN, City Clerk