

## ANTIOCH CITY COUNCIL

Regular Meeting  
7:00 P.M.

October 9, 2001  
Council Chambers

### **6:00 P.M. CLOSED SESSIONS**

- 1) **CONFERENCE WITH LABOR NEGOTIATOR** – City Negotiator: Bill May. Employee Organization: All Negotiating Units. This closed session is authorized by Government Code §54957.6.
  
- 2) **CONFERENCE WITH REAL PROPERTY NEGOTIATOR** – Property: APN 074-080-026 and 074-080-030, being parcels on the north side of Delta Fair Boulevard, bounded by Highway 4, and between Century Boulevard and the Contra Costa Canal Spillway. Negotiating parties: City of Antioch (prospective buyer), CalTrans and Contra Costa Consolidated Fire District (prospective sellers). Under negotiation: Price to be paid for property.

Mayor Pro Tem Kalinowski lit a candle and Mayor Freitas requested a moment of silence to honor the victims who died on September 11, 2001 as well as the men and women who are fighting for our interests.

Mayor Freitas called the meeting to order at 7:06 P.M., and City Clerk Martin called the roll, with all members present.

### **PLEDGE OF ALLEGIANCE**

Mayor Pro Tem Kalinowski led the Council and audience in the Pledge of Allegiance.

### **ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS**

Barbara Sobalvarro announced the Friends of Animal Services, 6th Annual Black Cat Ball at 6:30 P.M. on October 13, 2001 at the Nick Rodriguez Community Center and provided a contact number for anyone wishing to purchase tickets.

### **PROCLAMATIONS**

Help People with Mental Retardation Days, October 19, 20 and 21, 2001  
National Adopt A Shelter Dog Month, October 2001  
National Orthodontic Health Month, October 2001

On motion by Councilmember Conley, seconded by Councilmember Simonsen, the Council unanimously approved the proclamations. Councilmember Kalinowski presented the proclamation proclaiming October 19, 20, and 21, 2001 as Help People with Mental Retardation Days to Frank Weber. On behalf of the Knights of Columbus, Mr. Weber thanked the Council for the proclamation and their support.

Councilmember Davis presented the proclamation proclaiming October 2001 as National Adopt A Shelter Dog Month to Mr. Peña who thanked the Council for the proclamation and introduced Barbara Sobalvarro, Leslie Bachman and several dogs who had been adopted and others that were currently seeking adoption from the Antioch Animal Shelter.

Councilmember Conley presented the proclamation proclaiming October 2001 as National Orthodontic Health Month to Dr. Gorczyca who thanked the Council for the proclamation and their support.

### **PUBLIC COMMENTS**

Elvin Scott updated the Council and community on his efforts to provide information regarding pension funds on his website. He provided a contact number for anyone wishing to receive additional information.

Carol Ray expressed concern regarding the Gateway Christian Center located on East 18th and St. Claire Drive has not been following several of the conditions of approval for their use permit. She provided staff with a list of the residents' concerns.

City Attorney Galstan stated he had spoken with Mr. Ray and Harold Mesick regarding the residential concerns and he would continue working to address the issues.

Councilmember Davis requested Council be provided with copies of correspondences and responses from Mr. Ray regarding the issues.

Councilmember Conley suggested the construction company be noticed regarding the garbage pick up in the area.

Mayor Freitas requested Gateway Christian Center be notified of the residents concerns as well as Council's dissatisfaction of the residents being inconvenienced, noting the church there had an obligation to mitigate most of the issues.

### **COUNCIL REGULAR AGENDA**

#### **1. PRESENTATION BY MAYOR EMERITUS VERNE ROBERTS RE: NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL FUND #1301-01**

Mayor Emeritus Roberts presented information regarding the National Law Enforcement Officers Memorial Fund, Inc.

City Manager Ramsey reported \$4,000-\$5,000 had be donated to the Antioch fund set up to benefit Widows and Orphans of the Firefighters and Law Enforcement Officers lost on September 11, 2001 in New York City and Washington D.C. He noted there was a law enforcement memorial that would be constructed for Contra Costa County and Antioch would be participating financially in the construction.

Chief Moczulski reported with the addition of \$25,000 donated by Delta Advocacy to the fund, the City would be contributing approximately \$30,000 to the Widows and Orphans Fund.

Mayor Freitas requested information regarding the Widows and Orphans fund as well as the National Law Enforcement Officers Memorial Fund be provided on the City's website.

Mayor Freitas on behalf of the City Council, authorized City Manager Ramsey to match community contributions to the Widows and Orphans fund up to \$5,000.

**2. REVIEW OF PUBLIC ART ON THE NORTHWEST CORNER OF HILLCREST AVENUE AND LONE TREE WAY #1407-03**

Assistant to the City Manager Gegg presented the staff report dated September 19, 2001, recommending the City Council provide direction regarding location and funding of art intended for the northwest corner of Hillcrest Avenue and Lone Tree Way.

Nancy Chinn, President of the Antioch Arts and Cultural Foundation, requested Council provide direction regarding the Foundation's participation in the project.

Following discussion, Council agreed the northwest corner of Hillcrest Avenue and Lone Tree Way should be landscaped and the balance of the funds for the art from the developer used for the Memorial Tree Grove

On motion by Councilmember Conley, seconded by Councilmember Simonsen, the Council unanimously referred this matter to the Planning Commission recommending the following: 1) The northwest corner of Hillcrest Ave and Lone Tree Way be landscaped with turf and annuals within 120 days; 2) no advertising shall be permitted on the corner, and; 3) redirect the \$35,000 for art to the Memorial Tree Grove.

**PUBLIC HEARINGS**

**7. HE CITY OF ANTIOCH COMMUNITY DEVELOPMENT DEPARTMENT REQUESTS AN AMENDMENT TO THE FINAL DEVELOPMENT PLAN/TENTATIVE MAP FOR THE PREVIOUSLY APPROVED MEADOW CREEK VILLAGES PLANNED DEVELOPMENT TO REMOVE PROPOSED STREET ACCESS TO HEIDORN RANCH ROAD FROM MEADOW CREEK VILLAGES UNIT 5. THE PROJECT IS LOCATED WEST OF HEIDORN RANCH ROAD, NORTH OF THE EDMUD RIGHT-OF-WAY, EAST OF VISTA GRANDE DRIVE, AND GENERALLY SOUTH OF LONE TREE WAY. FILE: PD-88-4.3 #202-03**

Community Development Deputy Director Carniglia presented the staff report dated October 9, 2001, recommending the City Council adopt the resolution approving the amendment to the Final Development Plan/Tentative Map to remove proposed street access to Heidorn Ranch Road from Meadow Creek Villages Unit 5.

Mayor Freitas opened the public hearing.

Scott Belyea, representing A.D. Seeno, stated they support staff's recommendation and recommended additional wording to project specific condition #10 which reads ". . . or as an alternative the developer shall provide adequate entry with a median along Deerspring Way between Ledgewood Ct. and Vista Grande Drive with the approval of the Director of Public Works."

Mayor Freitas closed the public hearing.

Public Works Director Brandt stated they would work with the applicant for an alternate access point suitable for the City and the developer, noting a median would not address Chief Moczulski's concerns.

Councilmember Kalinowski stated he felt for pedestrian safety and the resident's privacy, the access should be used for emergency vehicles only.

Councilmember Simonsen requested project specific condition #2 be revised to read: "That the deletion of the intersection of Deerspring Way and Heidorn Ranch Road will not adversely affect the comprehensive General Plan."

On motion by Councilmember Conley, seconded by Councilmember Kalinowski, the Council unanimously adopted the resolution revising project specific condition #10 to read: "That the developer shall provide emergency vehicle access between Heidorn Ranch and Sungrove Way. The location and exact design of this emergency vehicle access shall be subject to the mutual agreement of the Public Works Director, the emergency response agencies (police and fire), and the property owner. The emergency vehicle access shall be subject to Planning Commission review and approval."

**8. CONSIDERATION OF A.D. SEENO CONSTRUCTION COMPANY'S REQUEST FOR EXTENSION OF DEVELOPMENT AGREEMENTS FOR MIRA VISTA HILLS (PW 365-11 and PW 365-13 through 16) AND MEADOW CREEK ESTATES (PD-87-2) #802-02/202-03**

City Attorney Galstan presented the staff report dated August 29, 2001, recommending the City Council: A) Adopt the resolution granting a request to extend Development Agreement for Mira Vista Hills for a period of five years; B) Adopt the resolution denying request to extend Development Agreement for Meadow Creek Estates.

Mayor Freitas declared a recess at 8:29 P.M. The meeting reconvened at 8:45 P.M. with all Councilmembers present.

**PROPONENTS**

Eric Hassletine, representing Seeno Company, stated they agreed with the recommendation from staff for extension of the Mira Vista Hills development agreement for 5 years. He stated the Meadow Creek Estates development agreement had unique language in which the City agreed to extend the agreement upon request for up to five years if economic conditions caused delay in the project. He noted there was substantial documentation to support a recession did occur and they have fully complied with all their obligations under the development agreement therefore he requested the City Council approve the request to extend the development agreement for Meadow Creek Estates for 5 years.

### **OPPONENTS**

Mark Wolfe stated they felt the interests of the community would be best served if the agreements were allowed to expire and the City negotiated with the developer additional conditions, fees and exactions to properly mitigate the developments current impacts. He stated they see no legal obligation for the City to extend the development agreements. Should Council agree to extend the development agreement, he requested an environmental review be conducted to determine if circumstances had changed warranting a new EIR or EIR addendum. He urged the Council to deny the request adding they could support Council affirmation of the Planning Commission's recommendation for a 6-month extension.

Dale Peterson, Reggie Moore, Mark Douville, and Terry Ramos spoke in support of denying the 5-year extensions of the Development Agreements to allow the City the ability to renegotiate the agreements and impose new mitigation requirements for the projects.

Allen Payton voiced his support to add new policies, guidelines and fees established since the development agreements had been approved. He requested a study be conducted regarding the impact to the homes from the toxic waste dumpsite.

### **REBUTTAL**

Eric Hassletine stated these projects had been accounted for in the EIR and have provided all mitigations required for projected impacts. He noted language in the development agreement allowed for an extension since market forces had negatively affected the ability to build out.

Mayor Freitas closed the public hearing.

In response to Councilmember Conley, City Attorney Galstan stated a CEQA review is not necessary for the extensions noting the agreement the EIR pertained to contemplated the extensions.

A motion by Councilmember Kalinowski to deny an extension for the Mira Vista Hills Development Agreement failed for lack of a second.

Councilmember Kalinowski stated he was opposed to the extension of the development agreements noting they were not properly mitigated for the current conditions within the City. He noted he felt the recession or the delay of closing the County dump had not affected the developer.

Following discussion the Council majority voiced their support for the extension of the Development Agreements noting the City had entered into a legal agreement with the developer, which should be honored. They agreed granting the extension would reduce the number of homes built per year.

**RESOLUTION NO. 2001/124**

On motion by Councilmember Simonsen, seconded by Councilmember Davis, the Council adopted the resolution granting a request to extend the Development Agreement for Mira Vista Hills for a period of 5 years. The motion carried by the following vote:

Ayes: Freitas, Davis, Conley, Simonsen

Noes: Kalinowski

**RESOLUTION NO. 2001/125**

On motion by Councilmember Simonsen, seconded by Councilmember Davis, the Council adopted the resolution granting the request to extend the Development Agreement for Meadow Creek Estates for a period of 5 years. The motion carried by the following vote:

Ayes: Freitas, Davis, Conley, Simonsen

Noes: Kalinowski

**9. RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN INTERIM FEE AGREEMENT LEVYING COMMUNITY PARK FEES FOR THE SAND CREEK RANCH DEVELOPMENT (PD-98-2) LOCATED IN FUA #2, NORTH OF LONE TREE WAY, AT THE TERMINUS OF COUNTRY HILLS DRIVE. (McBAIL COMPANY)**

**#202-03**

Assistant Planner Wehrmeister presented the staff report dated October 3, 2001, recommending the City Council adopt the resolution directing the City to enter into an interim agreement with the McBail Company regarding payment of community park fees for the Sand Creek Ranch Development.

In response to Mayor Freitas, City Attorney Galstan clarified it was the City's practice to spend the funds in the neighborhood which generates the fees.

Mayor Freitas opened and closed the public hearing with no speakers requesting to speak.

City Manager Ramsey stated the permanent ordinance would be coming to the Council by January 2002.

**RESOLUTION NO. 2001/126**

On motion by Councilmember Conley, seconded by Councilmember Davis, the Council unanimously adopted the resolution with the addition to the Implementation Agreement item #5 to read: "The fee would escalate annually from the date of this agreement (October 9, 2001) according to the Engineering News Record." And the addition to #4 to read, "If there is any fee agreed to by the City, that decreased fee would only affect homes which were unbuilt and would have no affect on homes which have been built and the fee paid." And the addition of #6 "That the funds would be used in FUA2 or Prewett Family Park."

**10. APPROVAL OF THE URBAN WATER MANAGEMENT PLAN 2000 #1202-01**

Administrative Analyst Haas-Wajdowicz presented the staff report dated October 9, 2001, recommending the City Council adopt the resolution approving the Urban Water Management Plan 2000, incorporating appropriate comments, at the close of the Public Hearing.

Mayor Freitas opened and closed the public hearing with no speakers requesting to speak.

**RESOLUTION NO. 2001/127**

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

Mayor Freitas declared a recess at 10:15 P.M. The meeting reconvened at 10:27 P.M. with all Councilmembers present.

**COUNCIL REGULAR AGENDA (Continued)**

**3. ANNUAL REVIEW OF DEVELOPMENT AGREEMENT FOR THE SAND CREEK RANCH DEVELOPMENT AND DETERMINATION OF GOOD FAITH COMPLIANCE #202-03**

Assistant Planner Wehrmeister presented the staff report dated October 3, 2001, recommending the City Council adopt the resolution finding that, based upon substantial evidence, the developer, McBail Company, has complied in good faith with the terms and conditions of the Development Agreement.

City Attorney Galstan reviewed attachment #4 of the staff report recommending: 1) City Council find McBail in compliance with the Development Agreement. In the alternative, it could find conditional compliance, based on future determination of the merits of the complaint; 2) City staff determine the amount of deposit to be paid by Local 159; 3) Local 159 pays the deposit; 4) City staff reports to City Council at a future meeting the outcome of its investigation; 5) City Council makes a determination.

Assistant City Engineer Bernal reported the consultant work would be completed in approximately 2 weeks with the item back before Council in approximately 1 month.

Aaron Hodess stated the Plumbing contractor is not participating in a program that meets the development agreement conditions and provided Council with a list of programs that are approved to train. He urged the Council to approve the resolution conditioned upon proof that the Plumbing Contractor is in compliance with the Development Agreement.

On motion by Councilmember Kalinowski, seconded by Councilmember Conley, the Council unanimously agreed to a conditional approval contingent on this item returning to Council on November 13, 2001 with a report showing all contractors are in complete compliance with the Measure "U" requirements.

**4. RESOLUTION APPROVING AN AGREEMENT WITH MUNDIE AND ASSOCIATES FOR THE ADMINISTRATIVE DRAFT ENVIRONMENTAL IMPACT REPORT AND FISCAL ANALYSIS FOR FUTURE URBANIZATION AREA #1, AND APPROVING AN AGREEMENT WITH DAHLIN GROUP, INC. FOR THE UPDATE OF THE DRAFT SAND CREEK (FUTURE URBANIZATION AREA #1) SPECIFIC PLAN #202-02**

Community Development Deputy Director Carniglia presented the staff report dated October 1, 2001, recommending the City Council approve the resolution authorizing the following contracts: Mundie and Associates for the Draft Environmental Impact Report (DEIR) and Fiscal Analysis for Future Urbanization Area #1 and: Dahlin Group Inc. for the Update of the Draft Sand Creek (Future Urbanization Area #1) Specific Plan.

**RESOLUTION NO. 2001/122**

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

**5. RESOLUTION APPROVING THE STREETS COOPERATIVE AGREEMENT BETWEEN THE CITY OF ANTIOCH AND THE CITY OF BRENTWOOD FOR LONE TREE WAY/HEIDORN RANCH ROAD #1102-04**

Public Works Director Brandt presented the staff report dated October 3, 2001, recommending the City Council adopt the resolution approving the "Streets Cooperative Agreement" between the City of Antioch and the City of Brentwood for Lone Tree Way/Heidorn Ranch Road and authorizing the Mayor to execute the agreement.

Mayor Freitas suggested addressing shopping cart concerns during the design phase of this project.



In response to Councilmember Simonsen, Public Works Director Brandt clarified the City of Antioch would provide the maintenance and annually bill Brentwood the cost for their pro-rata share.

**RESOLUTION NO. 2001/123**

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

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

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

**11. COUNCIL CONSENT CALENDAR**

**A. APPROVAL OF COUNCIL MINUTES FOR SEPTEMBER 18, 2001 #301-03**

**B. APPROVAL OF COUNCIL WARRANTS #401-02**

**C. REJECTION OF CLAIMS #704-07**

1. Darla Harper, #01/02-1234
2. Patti Hamilton, #01/02-1264
3. Michael Haro, #01/02-1268
4. Gayle Hasley, #00/01-1219

**D. ORDINANCE NO.984-C-S AMENDING SECTION 5-13.05 OF THE ANTIOCH MUNICIPAL CODE, DEALING WITH POLICE SERVICES FEES #701-05**

**E. RESOLUTION NO. 2001/128 APPOINTING BOARD AND COMMISSION MEMBERS TO EXTENDED TERMS #302-01**

**F. RESOLUTION NO. 2001/129 APPROVING PROGRAM SUPPLEMENT AGREEMENT NO. 004-M TO ADMINISTERING AGENCY-STATE AGREEMENT NO.04-5038 FOR FEDERAL AID PROJECTS FOR PAYMENT REHABILITATION (EAST EIGHTEENTH STREET / LONE TREE WAY) (PW 386) #1102-04**

**G. RESOLUTION NO. 2001/130 APPROVING PROGRAM SUPPLEMENT AGREEMENT NO. 002-M1 TO ADMINISTERING AGENCY-STATE AGREEMENT NO. 04-5038 FOR FEDERAL AID PROJECTS FOR HIGHWAY 4 TRAFFIC SIGNALS COORDINATION PROJECT (PW 642) #1104-02**

- H. **RESOLUTION NO. 2001/131 VACATING A SANITARY SEWER EASEMENT AND AUTHORIZING THE MAYOR TO SIGN AN ABANDONMENT OF EASEMENT TO GRAVINO'S, GATEWAY CHRISTIAN CENTER (UP-00-21A) #1205-01**
- I. **RESOLUTION NO. 2001/132 ACCEPTING A SANITARY SEWER AND STORM DRAIN EASEMENT AND AUTHORIZING THE MAYOR TO SIGN THE SANITARY SEWER AND STORM DRAIN EASEMENT, GATEWAY CHRISTIAN CENTER (UP-00-21A) #1205-01**

On motion by Councilmember Conley, seconded by Councilmember Simonsen, the Council unanimously approved the Council Consent Calendar with the exception of item E, which was removed for further discussion.

**Item E** - Following discussion the Council amended the resolution indicating the date Design Review Board Member Michael's term would expire on November 2004.

On motion by Councilmember Kalinowski, seconded by Councilmember Simonsen, the Council unanimously approved item E amending the resolution to indicate Design Review Board Member Michael's term would expire in November 2004.

**PUBLIC COMMENTS** - None

### **COUNCIL REPORTS/COMMUNICATIONS**

Councilmember Conley reported he had attended the Antioch and Deer Valley High School Football Game and dinner, which was a great event.

Mayor Freitas reported the Antioch and Deer Valley High School football game and dinner was a fun event and thanked Gordon Gravel for an outstanding speech.

Councilmember Conley expressed concern regarding the afternoon traffic at Diablo Vista School and requested the City Traffic Engineer review the situation.

Councilmember Simonsen complimented the Engineering department on the West Tregallas overlay project. He provided information regarding the Light Rail Transit System in Southern New Jersey noting he felt it could be the model for E-BART.

Councilmember Davis announced the Antioch Youth Council was doing great things and they were looking for Board Members. He reported there would be a flyer in next months water bill giving the current condition of the Mello Roos District.

In response to Mayor Freitas, City Manager Ramsey announced the October 16, 2001 City Council Study Session would be rescheduled to a later date.

Mayor Freitas announced there would be a Council meeting on October 23, 2001 and October 30, 2001.

City Manager Ramsey Rodger's Point field trip would be rescheduled for a Saturday.

Mayor Freitas announced a Town Hall meeting to inform the community on what is being done to prevent, intervene and treat adult and adolescent drug/alcohol and juvenile crime on October 15, 2001 at 7:00 P.M. in the Council Chambers. He requested a clock for Prewett Family Park be placed on the agenda in November. He announced the Antioch Police Department Public Hearing for the purpose of discussing the allocation of fiscal year 2001 local law enforcement block grant fund on October 11, 2001 at 4:30 P.M. in the Antioch Police Department Community Room. He reported Councilmember Simonsen and Kalinowski would be excused from the City Council meeting on October 23, 2001.

**STAFF COMMUNICATIONS - None**

**ADJOURNMENT**

With no further business, Mayor Freitas adjourned the meeting at 11:15 P.M. to the regular meeting on October 23, 2001.

Respectfully Submitted:

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L. JOLENE MARTIN, City Clerk

Approved:

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DONALD P. FREITAS, Mayor

Attest:

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L. JOLENE MARTIN, City Clerk