

ANTIOCH CITY COUNCIL

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

**January 27, 2004
Council Chambers**

6:30 P.M. - CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL C ANTICIPATED LITIGATION. Significant exposure to litigation. (One case) This closed session is authorized by Government Code §54956.9.

2. CONFERENCE WITH LEGAL COUNSEL C ANTICIPATED LITIGATION. Determination whether to file litigation. (One Case) This closed session is authorized by Government Code §54956.9.

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

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

PLEDGE OF ALLEGIANCE

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

Mayor Freitas announced there was nothing to report from the closed session held earlier in the evening.

ANNOUNCEMENTS OF BOARD AND COMMISSION OPENINGS

City Clerk Martin announced the City was seeking candidates to fill two vacancies on the Park and Recreation Commission and three vacancies on the Police Crime Prevention Commission. She noted those interested in applying to contact the City Clerks office for an application or download an application from the City's website. The deadline to submit an application is March 19, 2004, 5:00 P.M.

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Bart Sandborn invited the community to attend the Safety Fair, scheduled for February 7, 2004 from 10:00 a.m. to 3:00 P.M. at the Somersville Towne Center.

Mayor Freitas, on behalf of the City Council and community, thanked Mr. Sandborn for volunteering his time for the event.

PUBLIC COMMENTS

Sandy Henry, Chairperson of the Board for the Antioch Chamber of Commerce, introduced the Chamber of Commerce's new president and CEO, Devi Lamphere.

Ms. Lamphere stated she was looking forward to working with the City Council.

Alison McNell, Antioch resident, discussed the referendum pertaining to the Reynolds and Brown project. She stated residents who had signed the petitions were aware of the specifics of the project and were against the doubling of the density as proposed with the apartment complex component of the project.

Earl Hill, Antioch resident, provided the City Council with documentation of an incident in which his dog was attacked and killed by an unleashed pitbull in his neighborhood. He questioned why the City released the dog back into the custody of it's owner without signing the documentation. It was clear the owner was out of compliance with City Code in the past, and didn't feel the owner would not be required to comply with the conditions of the dogs release. He noted the likelihood of another attack was very high and requested the Council look into the release of the dog.

Mayor Freitas, on behalf of the City Council offered his condolences to Mr. Hill and stated he would direct staff to look at the ordinance and provide Council with the information to render a decision in the matter.

Councilmember Conley requested the item be agendized for discussion.

Lena O'Neal, Antioch resident stated she agreed with Mr. Hill's comments and expressed concern the pitbull would attack again.

Emil Stein, Antioch resident, questioned the authorization of the black paint and the installation of barbed wire on the soundwall at the Nokes Auto Dealership on Somersville Road. He stated he had not received a response regarding his request for additional handicapped ramps in his neighborhood and expressed concern the City was in violation of the Americans with Disabilities Act. He noted it was difficult for him to navigate in his neighborhood and he would like the issue addressed.

Mayor Freitas read written comments provided by Randy Powers, Antioch resident, expressing his concern the Planning Department had not followed up on his request for stop signs and crosswalks at Crestview and Aster Streets. He requested City Engineer/Community Development Director Brandt followup on the issue.

Dee Vieira, Antioch resident, stated premature discing of land had occurred in an area where the burrowing owls forage and live near Lone Tree and Blue Rock area. She noted

she felt the land was disced specifically to avoid mitigation requirements. She submitted a photograph of the property and urged the City Council to consider a discing ordinance, especially on land known to have animals of special concern.

Valinda Cattolico, Antioch resident, provided written comment urging the City Council to vote to have the pitbull referenced in Mr. Hill's comments destroyed.

Laurence Allums, Antioch resident, speaking on behalf of Mr. Hill voiced his appreciation to the City Council for their comments and voiced his support to have the pitbull euthanized.

Tanya Schmidt, Antioch resident, voiced her support to have the pitbull put back in custody if it was not euthanized.

Ken Lee, Antioch resident, expressed his concern the contractor hired to perform the demolition of buildings at West 18th Street and Somersville Road has been remiss in the procedures used. He stated they had allowed for pedestrian traffic to pass within four feet of the building, which he felt was unsafe at the time. He further stated after calling the building department the company employed a flagman to stop pedestrian traffic, although he still allowed pedestrians to pass. He noted the building was currently accessible with debris hanging loose threatening to fall and hit passing vehicles. He further noted the equipment transport accessed West 18th Street to deliver the tractor, damaging the street. He presented Council with a picture of the truck.

Mayor Freitas requested staff follow through to address the Dealership issues and directed them to respond immediately if there was indeed a public safety hazard at the corner.

1. COUNCIL CONSENT CALENDAR

1. APPROVAL OF COUNCIL MINUTES FOR NOVEMBER 25 and DECEMBER 9, 2003 #301-02
- B. APPROVAL OF COUNCIL WARRANTS #401-02
- C. APPROVAL OF TREASURER'S REPORT FOR NOVEMBER 2003 #401-02
- D. LEGISLATION AND ADVOCACY #701-04
- E. RESOLUTION NO. 2004/3 AUTHORIZING STAFF TO FILL TWO VACANT GENERAL FUND POSITIONS - COMMUNITY DEVELOPMENT TECHNICIAN (TRAFFIC) AND POLICE DISPATCHER #502-02

- F. RESOLUTION NO. 2004/4 DIRECTING ENGINEER OF WORK TO PREPARE CONSOLIDATED ENGINEER'S REPORT FOR THE ANNUAL LEVY OF ASSESSMENTS FOR LANDSCAPING DISTRICTS FY 2004/2005 #806-03
- G. ORDINANCE AMENDING SECTION 4-5.411 OF THE ANTIOCH MUNICIPAL CODE, DEALING WITH ENFORCEMENT ON PRIVATE PARKING LOTS (*to 2/10/04 for adoption*) #1105-01
- H. APPROVAL OF CHANGE ORDER TO INCREASE THE SIZE OF PROPOSED SANITARY SEWER ON EAST LAKE AND NORTH LAKE DRIVES (PW 503-9) #1205-01
- I. RESOLUTION NO. 2004/5 APPROVING THE PROPOSAL FOR THE METROPOLITAN TRANSPORTATION COMMISSION'S TRANSPORTATION DEVELOPMENT ACT (TDA) GRANT APPLICATION #1107-01

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

PUBLIC HEARINGS

- 2. **RAVINDER PADDA REQUEST APPROVAL OF AN APPEAL OF THE DECISION OF THE PLANNING COMMISSION DENIAL OF A REQUEST FOR A USE PERMIT TO SELL GASOLINE AND A VARIANCE FROM THE SITE REQUIREMENTS FOR AN AUTOMOBILE SERVICE STATION LOCATED AT 418 EAST 18TH STREET (APN 068-514-002) (UP-03-03, V-03-03) #202-10**

Assistant Planner Morris presented the staff report dated January 13, 2004 recommending the City Council deny the Applicant's appeal request and uphold the decision of the Planning Commission.

Mayor Freitas opened the public hearing.

Richard Littorno, Attorney representing Ravinder Padda and family, requested the City Council support the family business. He reviewed his letter (attachment "C" of the staff report) and urged the City Council to grant the use permit and allow the applicant to complete the service station work and site improvements as soon as practical. He noted the City Council had the power to condition the use permit specifying the time and method gasoline would be delivered to the address, thus eliminating staff's concerns regarding circulation at the site.

Frank Hamedi, consultant for the project, stated he was available to answer questions

regarding the delivery trucks and permitting. He reported he had stopped pursuing the issuance of permits until those issues were resolved with the City. He noted they were proposing to replace two dispensers with one to provide more room for circulation within the site.

Michael Gourkani stated other gas stations with smaller sites were currently operating and did not have circulation problems.

Sandra O'Leary and Renae Browning, Antioch resident, stated there had never been a problem with circulation at the site due to the fueling, although the cyclone fencing and AC Transit buses blocking the driveways have caused traffic issues.

Mayor Freitas requested the Tri-Delta representatives look into the bus issue.

Kathleen Smith and Thomas Corro, Antioch residents stated the business had operated in the past with no traffic problems and they felt as soon as the cyclone fencing was removed site circulation would improve.

In response to Councilmember Simonsen, Mr. Littorno stated he did not believe the Padda family was aware of the change in the ordinance specifying the use permit would expire after a year of continuous non-operation.

City Attorney Galstan stated he had determined the service station ordinance was not applicable in this application. He clarified the issue before Council was the fact the use permit had expired due to the fact the business discontinued use for a period exceeding one year, as stated in the Antioch Municipal Code.

Mr. Littorno stated the Planning Commission had denied the application based on the service station ordinance.

Councilmember Simonsen stated the older character of the City should be protected if the City were to enforce the provisions of the ordinance. He questioned how the applicant would know of the provisions of their use permit.

Councilmember Conley discussed the importance of bringing all businesses up to date and in conformance with the City's current codes and ordinances.

Councilmember Davis stated this had been a blighted area in the City for some time, and he felt this was an opportunity to clean up the area.

Councilmember Simonsen stated he could not support the following motion noting it sent a bad signal to the existing business community.

Councilmember Kalinowski stated the business had not been dispensing gas for three years allowing staff ample time to review the facts and determine whether or not the business was in compliance with the Antioch municipal code. He felt the property had a serious circulation issue, and was not in compliance as it allowed the driveway to be used as both an entrance and an exit on East 18th Street.

RESOLUTION NO. 2004/6

On motion by Councilmember Conley, seconded by Councilmember Kalinowski the City Council denied the applicant's appeal and upheld the Planning Commission's decision. The motion carried by the following vote:

Ayes: Kalinowski, Davis, Conley, Freitas

Noes: Simonsen

COUNCIL REGULAR AGENDA

**3. PRESENTATION AND DISCUSSION OF THE DRAFT COUNTYWIDE
TRANSPORTATION PLAN (CCTA) #1107-01**

City Manager Jakel presented the staff report dated January 6, 2004 recommending the City Council receive and file the report from Contra Costa Transportation Authority and consider development of Council comments prior to the March 3rd deadline for the comment period.

Susan Miller, Engineering Manager for Contra Costa Transportation Authority, provided a brief presentation of the Contra Costa Countywide Transportation Plan and the extension of Measure "C" sales tax. She reviewed the list of expenditure plan options, growth management issues and schedule for the process and workshops.

Councilmember Conley discussed the importance of widening Highway 4 and expressed concern it was in "Option A" with the HOV lanes on 680. He stated East County provides the housing for the adjacent counties and was subject to a transportation fee he felt all countywide residents should be paying.

Ms. Miller clarified the State funds would come by formula to Contra Costa and they would be able to program those funds if and when they came. She noted federal funds were tied to some of the state money although they were pursuing demonstration funds for Highway 4, of which they had been informed the money was needed in addition to local funding to make the project whole.

Mayor Freitas stated the East County representatives were in total agreement regarding

the projects, which included the extension of Highway 4, BART/eBART to eastern Contra Costa County, State Route 4 Bypass and Vasco Road. He reported there was countywide support for Highway 4 being one of the top priorities. He further stated it was his hope the residents would support the extension of Measure "C" as eastern Contra Costa County stood to be the greatest beneficiary of the money. He reported in addition to Measure C there was SB916, regarding the bridge toll, and the East County representatives fought for \$95M for the BART/eBART extension.

In response to Councilmember Kalinowski, Ms. Miller clarified if a transit mode was not funded, the region in which the project was to have occurred could propose a replacement project to the Authority

Councilmember Kalinowski stated he would like a mechanism in the agreement allowing for the funds to stay within the region for which they were originally allocated should a project not be funded.

Ms. Miller announced an East County Workshop would be held on February 12, 2004 in the Brentwood City Council Chambers at 7:30 P.M., a Public Hearing would be held on March 3, 2004 for the Countywide Plan and Environmental Impact Report, Authority Adoption of the preferred alternative including the expenditure plan was tentatively scheduled for March 24, 2004, and a Countywide workshop for review of the document was scheduled for May 1, 2004.

Mayor Freitas declared a recess at 8:27 P.M. The meeting reconvened at 8:36 P.M. with all Councilmembers present.

4. PRESENTATION AND RESOLUTION ADOPTING THE "SHAPING OUR FUTURE PRINCIPLES OF AGREEMENT," DATED DECEMBER 3, 2003 #202-01

Community Development Deputy Director Carniglia presented the staff report dated January 27, 2004 recommending the City Council adopt the resolution supporting the "Shaping Our Future Principles of Agreement" dated December 3, 2003, subject to the qualifying language included in the staff reports and resolution.

Don Blubaugh, project manager gave an overview of the history of the agreement and reviewed the Shaping Our Future Principles of Agreement.

In response to Councilmember Conley, Mr. Blubaugh stated all the cities within the county should work together on economic development with East County being on the forefront.

In response to Councilmember Simonsen, Mr. Blubaugh stated the City would have the opportunity at a later date to determine whether or not they would support an open space

initiative. He noted he had read the resolution as provided in the staff report and he was in support of the City of Antioch's desire to have the issues addressed. He further noted if the City did not wish to participate, they could withdraw at any time.

Mayor Freitas stated he was reluctant to support the draft proposed open space funding measure due to the fact it was too specific and was still being debated. He voiced concern the property acquisition may be made with split lines. He noted he would be recommending language be inserted in the resolution addressing those issues. He further requested further definition be provided in principal #15 as it related to "by mutual consent."

Terry Ramus, Antioch resident, stated few people from East County participated in the Shaping Our Future meetings and he did not feel Antioch had been well represented. He expressed concern regarding the regional decision changing the nature of the project, noting it had not benefitted East County in the past. He stated he felt there was no reason to sign the agreement, although he did feel the City should cooperate.

Dee Vieira, Antioch resident, stated she felt Highway 4 and City infrastructure should be addressed prior to further housing and/or business growth. She questioned if Antioch could have the following conditional participation in Shaping Our Future project "Development Plans will not be implemented or interpreted in a manner that encourages population growth not desired by a community or not adequately supported by existing infrastructure."

Tim Donahue, Antioch resident, discussed the importance of East County participation ensuring acknowledgment and the demand their fair share of the future benefits occurring in the County.

Mayor Freitas expressed concern regarding a recent editorial in the Contra Costa Times noting he felt it perpetuated a negative perception of East Contra Costa County. He stated the City of Antioch had made changes and he expressed concern the City had not received the credit it deserved. He noted the City had begun to manage growth through the Residential Development Allocation process, by adopting a General Plan that provided smart growth alternatives, by raising the traffic mitigation fee to almost \$8,000 per new home and assuring that all impacts for the schools are fully mitigated for FUA#1. He requested the City Council support the resolution with the changes indicated by staff and with the items he had previously indicated noting he felt the City could not move forward until they began work with the other jurisdictions and negotiate regionally.

Councilmember Conley stated he felt it was imperative all of the cities participate in the process. He noted the City of Antioch had led the way in Contra Costa County in curbing housing with an ordinance limiting future growth, increasing transportation funding and having a jobs/housing ratio project of almost 5-1. He suggested the voter approved Urban Limit Line be what the jurisdictions consider until 2020 during which time a panel of

environmentalist and developers could determine which land should be developed. He noted at that time the public could vote on the permanent placement of the Urban Limit Line and until that time it should only be changed acre for acre.

Councilmember Simonsen stated he felt the media needed to be educated with the facts and reported he had asked staff to gather the statistics for new home and commercial building permits issued and new business licenses issued from 1998-2003. He noted Antioch had the housing and it was important to draw jobs to the area. He stated he felt it was important to participate in "Shaping Our Future" and working with the other jurisdictions.

Councilmember Davis stated he would be supporting the principals of agreement with the changes as directed. He discussed the importance of a regional approach noting he felt it would benefit East County.

Councilmember Kalinowski stated he would be supporting "Shaping Our Future" noting he felt it was important to be involved. He stated he would not support the movement of the Urban Limit Line until the appropriate infrastructure for Highway 4 was in place. He discussed the importance of item #5 in the letter from the City of Lafayette and the city supplying jobs capable of paying a prevailing wage with benefits. He stated Antioch was currently addressing the need to curb housing and the City Council had taken the steps to assure residents came first. He noted he felt the City Council should take a position in FUA#1 reflecting the housing balance needed in the community. He felt the residents of the county should vote on the compact to assure they were in agreement with the elected officials.

Councilmember Simonsen requested Item #4 of the letter dated January 27, 2003 from Erling Horn to Don Blubaugh be included in the resolution and suggested, for continuity, the term "compact" be deleted from item #2.

Mr. Blubaugh clarified all references to the compact have been deleted in all the documentation and the policy committee decided not to pursue it.

Following discussion the City Council majority did not support adding #4 of the letter dated January 27, 2003 from the City of Lafayette to the motion.

RESOLUTION NO. 2004/7

On motion by Councilmember Simonsen, seconded by Councilmember Davis the City council adopted the resolution supporting the "Shaping Our Future Principles of Agreement" dated December 3, 2003, subject to the qualifying language included in the resolution and with the following changes to the resolution: 1) #2 The implementation of the

"Principles" will need to adequately address this issue from Antioch's perspective; 2) Adding clarifying language with regards to the open space "draft proposed open space funding measure"; 3) Add action clause #15 to clarify "by mutual consent", which would be a "stand by itself action clause"; 4) Adding number #5 in the letter from Erling Horn to Mr. Blubaugh.

5a) RESOLUTION INITIATING CHANGE PROCEEDINGS FOR CITY OF ANTIOCH EAST LONE TREE LIGHTING AND LANDSCAPE MAINTENANCE DISTRICT #10 (PW 500) #806-03

5b) RESOLUTION PRELIMINARILY APPROVING CHANGE PROCEEDINGS REPORT AND SETTING DATE FOR PUBLIC HEARING FOR CITY OF ANTIOCH EAST LONE TREE STREET LIGHTING AND LANDSCAPE MAINTENANCE DISTRICT #10 (PW 500) #806-03

RESOLUTION NO. 2004/8
RESOLUTION NO. 2004/9

On motion by Councilmember Conley, seconded by Councilmember Kalinowski the City Council adopted the resolutions.

6. RESOLUTION APPROVING THE INTENTION TO ESTABLISH THE SAND CREEK - LONE TREE WAY BENEFIT DISTRICT (PW 639-BD) #802-02

RESOLUTION NO. 2004/10

On motion by Councilmember Kalinowski seconded by Councilmember Simonsen the City Council unanimously adopted the resolution.

STUDY SESSION

7. STUDY SESSION ON RECREATION VEHICLE PARKING RESTRICTIONS #701-05

Following discussion the Council agreed with Mayor Freitas' recommendation to appoint Councilmembers Davis and Kalinowski to a subcommittee to work with City staff and citizens to review the existing ordinances and comeback within 90 days for Council action.

PUBLIC COMMENTS - None

COUNCIL COMMUNICATIONS

Mayor Freitas announced on January 23, 2004 the Antioch Chamber of Commerce honored Mr. Grant as the 2003 Citizen of the Year and Brown Cow Farms as the 2003 Business of the Year. He added Sandy Henry had honored Donna Conley for "outstanding service to the Chamber and community" and he thanked Ms. Conley for the work she does in the community. He reported the Boards and Commissions breakfast was held on January 27, 2004 at Mimi's Café. He noted the Planning Commission had proposed staggering the terms of office for the Boards and Commissions. He further noted he had requested all Boards and Commission agendaize the item, as well as the composition of their Boards and Commissions under consideration within the next 30 days for consideration by the City Council. He reminded the community the Safety Fair would be held on Saturday, February 7, 2004 from 10:00 A.M. - 3:00 P.M. at the Somersville Towne Center.

Councilmember Simonsen reported the League of California Cities policy committee meeting was held in Los Angeles last week and noted it would be a busy year with new legislation and budget. He requested the meeting be adjourned in memory of Monterey Councilmember Ruth Breeland.

Mayor Freitas announced there would be a special meeting of the City Council on February 17, 2004 from 6:00 - 8:00 P.M.

In response to Councilmember Conley, City Engineer/Community Development Director Brandt stated he had contacted Mr. Stein regarding his request for handicapped ramps, adding they were installed in the areas he had requested. He noted he was expanding that request to other areas.

STAFF COMMUNICATIONS

City Manager Jakel announced there would be a Manufacturing Summit on February 5, 2004 in the Antioch Council Chambers, which would be taped for a future playback date.

With no further business, Mayor Freitas adjourned the meeting in memory of Ruth Breeland and Angelo Marchetti at 10:12 P.M. to the next regular Council meeting on February 10, 2004.

Respectfully submitted,

L. JOLENE MARTIN, City Clerk