

**ANTIOCH CITY COUNCIL  
ANTIOCH DEVELOPMENT AGENCY**

Regular Meeting  
7:00 P.M.

December 11, 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 056-120-013, NW corner of Lone Tree Way and Empire Road. Negotiating parties: City of Antioch and John and Carol Slatten. Under negotiations: instruction to negotiator will concern price and terms of payment. This closed session is authorized by Government Code §54956.8.

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

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

Mayor Freitas reported the Council: 1) had taken no action regarding the conference with real property negotiator, and; 2) voted 5-0 for retroactivity to October 1, 2001 for one of the City employee units. City Attorney Galstan stated it was a tentative agreement subject to the ratification of the union and formal Council approval at the next regular agenda. He noted it would be a 3-year contract.

**PLEDGE OF ALLEGIANCE**

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

**ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS**

None

**PRESENTATION**

Bart Sandborn, Past Neighborhood Watch Coordinator

Mayor Freitas announced Police Services Manager Karste requested this item be held over to January 2002.

**PUBLIC COMMENTS**

Elvin Scott updated the Council on his efforts to provide the public with information on pension funds through several television programs and discussed his request for non-profit status. He thanked everyone for their support.

**1. COUNCIL CONSENT CALENDAR**

- A. **APPROVAL OF COUNCIL MINUTES FOR NOVEMBER 27, 2001 (Continued to January 8, 2002)** #301-03
- B. **APPROVAL OF COUNCIL WARRANTS** #401-02
- C. **ORDINANCE NO. 986-C-S ADDING §9-5.3307 TO THE ANTIOCH MUNICIPAL CODE, ADOPTING THE EAST 18TH STREET SPECIFIC PLAN AND REZONING PROPERTIES TO THE PLANNED DEVELOPMENT DISTRICT (EAST EIGHTEENTH STREET SPECIFIC PLAN) (Introduced 11/27/01)** #202-07
- D. **ORDINANCE NO. 987-C-S AMENDING TITLE 9, CHAPTER 5, ARTICLE 3 OF THE ANTIOCH MUNICIPAL CODE (ZONING MAP) FOR THE VICINITY LOCATED ON THE NORTH SIDE OF OAKLEY ROAD, APPROX. 1,300 FEET WEST OF PHILLIPS LANE (PD-00-4) (OAKLEY KNOLLS) (Introduced 11/27/01)** #202-03
- E. **ORDINANCE AMENDING SECTIONS 4-5.411 AND 4-5.411.1 OF THE ANTIOCH MUNICIPAL CODE, DEALING WITH TRAFFIC ENFORCEMENT ON PRIVATE PARKING LOTS, ROADS AND STREETS (Terrace Shopping Center; Alleyway at Police Facility)** #1104-01
- F. **RESOLUTION NO. 2001/154 SUPPORTING THE EXTENSION OF THE STATE ABANDONED VEHICLE ABATEMENT PROGRAM UNTIL 2012** #701-01
- G. **RESOLUTION NO. 2001/155 SETTING SEWER CONNECTION FEES FOR FRONTING PROPERTIES ON EAST EIGHTEENTH STREET FROM WILLOW AVENUE TO DRIVE-IN WAY (PW 225-20S)** #410-05
- H. **RESOLUTION NO. 2001/156 APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CITY CLERK TO ADVERTISE FOR BIDS FOR DEMOLITION AND REMOVAL OF BUILDINGS AND STRUCTURES AT MISCELLANEOUS LOCATIONS (PW 469-18)** #1001-02
- I. **AUTHORIZE THE CITY TO ADVERTISE FOR CURRENT VACANCIES TO THE BOARD OF ADMINISTRATIVE APPEALS (3) (4-YEAR TERMS) AND UPCOMING VACANCIES TO THE PARKS AND RECREATION COMMISSION (2) (4-YEAR TERMS)** #302-12
- J. **RESOLUTION NO. 2001/157 ACCEPTING COMPLETED IMPROVEMENTS FOR CANADA HILLS, UNIT 7, TRACT NO. 7459 (SHEA HOMES), (PW 542-7) #802-02**

On motion by Councilmember Conley, seconded by Councilmember Davis, the Council unanimously approved the Council Consent Calendar with the exception of Item I which was removed for further discussion.

***Item I*** - In response to Councilmember Simonsen, City Manager Ramsey clarified staff had suggested advertising on a quarterly basis, for multiple vacancies at the same time to conserve costs. Mayor Freitas announced Commissioner Patterson would be resigning his position and requested the motion include increasing the Park and Recreation Commission vacancies to three, including the unexpired term of Commissioner Patterson.

On motion by Councilmember Simonsen, seconded by Councilmember Conley, the Council unanimously approved item I, directing staff to include the unexpired term for the Parks and Recreation Commission.

## **COUNCIL REGULAR AGENDA**

### **2. UNITED STATES POSTAL SERVICE PRESENTATION #1408-00**

Postmaster Daniels gave a brief presentation on the United States Postal Services highlighting technological changes in the postal service in Antioch and also changes implemented in the wake of the September 11, 2001 attacks. He presented the Council with a "United We Stand" stamp poster and lapel pins.

### **3. CONTRACT BETWEEN THE CITY OF ANTIOCH AND THE ARTS AND CULTURAL FOUNDATION OF ANTIOCH FOR SERVICES LEASE BETWEEN THE CITY OF ANTIOCH AND THE ARTS AND CULTURAL FOUNDATION OF ANTIOCH. USE OF EXISTING FUNDS IN THE CIVIC ARTS ACCOUNT AND USE OF MONEY RECEIVED AS GIFTS #1407-03**

Assistant to the City Manager Gegg presented the staff report dated October 29, 2001, recommending the City Council: 1) Adopt the resolution approving the services agreement between the City of Antioch and the Arts and Cultural Foundation of Antioch; 2) Adopt the resolution approving the Lease between the City of Antioch and ACFA for the lease of Lynn House; 3) Adopt the resolution establishing an account for existing funds and the anticipated monetary gift.

Nancy Chinn, President of the Arts and Cultural Foundation introduced members of the Foundation and updated the Council on their accomplishments. She reviewed a schedule of events for 2002.

Mayor Freitas directed staff to renumber the services agreement accordingly and requested any repairs exceeding \$7,500.00 be approved by the City Manager.

In response to Mayor Freitas, City Attorney Galstan stated he would correct the language within the service agreement to reflect the resolution language.

Mayor Freitas requested flexibility regarding the "as needed" cash flow of money prior to the regular quarterly disbursement. City Manager Ramsey suggested added language to the resolution "that payment for performance of services will be on a quarterly basis unless otherwise approved by the City Manager."

Councilmember Kalinowski expressed concern regarding this exposure to the General Fund and requested any shortfall come from the reserve unless acted upon by the City Council.

**RESOLUTION NO. 2001/158**

On motion by Councilmember Conley, seconded by Councilmember Davis, the Council unanimously approved the resolution approving the services agreement between the City of Antioch and the Arts and Cultural Foundation of Antioch for the term of 3-years with the following revisions to the agreement: 1) Renumber the Services Agreement accordingly, 2) Revise the Services Agreement, paragraph 1, section 2, striking "or an amount not to exceed \$120,000" and replacing it with "or \$120,000."; 3) Revise section 2 paragraph 4 to read, "Three (3) Quarterly payments will be made from the CITY to the CONTRACTOR in the amount of \$30,000 unless otherwise approved by the City Manager. The last quarterly payment will be for the difference between 30% of the initial 10% of the lodging fee and \$90,000 or \$30,000 whichever is greater."; 4) Any shortfall that the Arts and Cultural Foundation would incur will come out of the reserves unless approved by the City Council.

**RESOLUTION NO. 2001/159**

On motion by Councilmember Kalinowski, seconded by Councilmember Davis, the Council unanimously adopted the resolution approving the lease agreement between the City of Antioch and the Arts and Cultural Foundation of Antioch for lease of Lynn House with the following revision to the agreement section 5 subsection b, "Subleasing will be prohibited."

**RESOLUTION NO. 2001/160**

On motion by Councilmember Simonsen, seconded by Councilmember Kalinowski, the Council unanimously approved the resolution establishing an account for existing funds and anticipated monetary gift.

**5. RESOLUTION APPROVING A TIDELANDS LEASE WITH RIVERVIEW LODGE**

**#1001-05**

City Attorney Galstan presented the staff report dated November 13, 2001, recommending the City Council adopt the resolution.

Councilmember Conley requested staff continue to work with the owner of the Riverview Lodge to improve the site.

**RESOLUTION NO. 2001/161**

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

**8. LEGISLATION AND ADVOCACY**

**#701-04**

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

**7. CONSIDERATION OF AMENDING THE CITY'S PERSONNEL RULES TO IMPLEMENT A SYSTEM GIVING VETERANS A PREFERENCE OVER OTHER QUALIFIED APPLICANTS FOR INITIAL HIRING DECISIONS**

**#502-03**

Acting Personnel Director May presented the staff report dated December 5, 2001, recommending the City Council direct staff to prepare an amendment to Personnel Rules to implement Veterans' Preference System.

Councilmember Simonsen requested information regarding the state law as it pertains to the Veteran's Preference System.

On motion by Councilmember Davis, seconded by Councilmember Conley, the Council unanimously directed staff to prepare an amendment to Personnel Rules to implement Veteran's Preference System.

Mayor Freitas declared a recess at 7:55 P.M. The meeting reconvened at 8:03 P.M. with all Councilmembers present.

**PUBLIC HEARINGS**

**9. JEFF SOMMERS REQUEST AN APPEAL OF THE PLANNING COMMISSION'S DECISION TO APPROVE A USE PERMIT FOR A SECOND LIVING UNIT. THE PROJECT SITE IS LOCATED AT 448 CHRISTINA CT. (UP-01-11)**

**#202-10**

Assistant Planner Wehrmeister presented the staff report dated December 6, 2001, recommending the City Council uphold the Planning Commission's decision to uphold the Zoning Administrator's approval of UP-01-11.

Mayor Freitas opened the public hearing.

**PROPONENT**

Jeff Sommers stated he had presented a petition in opposition to this application, which was signed by a majority of homeowners located on Christina Court. He noted they felt their concerns for parking, increased traffic and the impact of approving low income housing in their neighborhood had not been addressed. He further noted the garage on this property had already been converted into a kitchen unit, therefore the neighborhood felt this application was actually for a 3rd living quarter on the property.

**OPPONENT**

Bernard Mosbacher spoke on behalf of the Chandra family stating their intent was to create a caretaker unit for an elderly relative living in the Chandra home. He stated vehicle trips would lessen with onsite care and they had agreed to provide additional vehicle parking. He noted that under code the range in the garage was allowed and did not meet the stipulations for a second living unit. He further noted the Chandra's do not intent to negatively impact property values with the addition of the second unit and stated he felt their request was fair, legitimate and met the requirements of the law.

## **REBUTTAL**

Jeff Sommers stated they felt if the City Council allowed this project to move forward without addressing the concerns of the neighbors it would be a wrong decision.

Mayor Freitas closed the public hearing.

A motion by Councilmember Simonsen to uphold the Planning Commission's decision to uphold the Zoning Administrator's approval died for lack of a second.

Following discussion the Council majority stated they did not support upholding the Planning Commission's approval noting the second unit, potentially 2 bedrooms with the second unit facing the rear of the structure, did not fall into compliance with the ordinance.

## **RESOLUTION NO. 2001/163**

On motion by Councilmember Kalinowski, seconded by Councilmember Conley, the Council upheld the appeal and denied the use permit. The motion carried by the following vote:

Ayes: Davis, Kalinowski, Conley, Freitas,

Noes: Simonsen

## **COUNCIL REGULAR AGENDA ( Continued)**

### **4. REVIEW OF EXHIBIT "C" LOCAL PREFERENCE AGREEMENT OF THE DEVELOPMENT AGREEMENT FOR THE SAND CREEK RANCH DEVELOPMENT AND DETERMINATION OF GOOD FAITH COMPLIANCE #202-03**

Public Works Director Brandt presented the staff report dated December 4, 2001 recommending the City Council select for approval the resolution they deemed most appropriately conveyed that McBail Company's demonstration of good faith compliance with the Development Agreement for the Sand Creek Ranch development.

Patrick Dennis, Jim Hicks, Michael Longeuay, Bob Hansen, Reggie Moore, Steven Umbenhower, Jack Davis, Greg Feere and Joseph Richardson spoke in support of the resolution determining McBail had not demonstrated good faith compliance with the Development Agreement for the Sand Creek Ranch Development and discussed the

importance of the local preference agreement requirement to have an employee enrolled in a formal apprenticeship program approved by the State Department of Apprenticeship Standards.

Pat Leister, Sandy Henry, Robert Thomas, Nancy McCaffery, Ronald Taylor and Scott Parkinson, spoke in support of the resolution determining McBail Company had demonstrated good faith compliance with the Development Agreement for the Sand Creek Ranch Development and discussed the importance of the City to support local business with local employees.

Paul Hodgkinson and Jeremy Schutter provided written comment indicating their support for Thomas Plumbing continuing the McBail project.

Dave Thomas, Valentine Riley, Scott Parkinson and Cortney Thomas provided written comment indicating their support for the movement.

Mike Gallagher clarified Thomas Plumbing was awarded the bid based on the fact they were a local company, had an acceptable bid and provided documentation they were involved in an apprenticeship program.

Aram Hodess stated the City had an agreement that should be enforced and urged them to find McBail Company in non-compliance with the Development Agreement. He suggested giving the sub-contractor 10 days to meet the compliance requirements or require McBail to live up to the agreement and replace Thomas Plumbing.

Gene Paris stated he believed there had been a misunderstanding on behalf of all parties involved and suggested a 45 day period for Thomas Plumbing to become a signatory to a contractor and fall into compliance with the development agreement.

Gary Smith gave a brief overview of the procedure he used to reach the conclusion that the McBail Company has endeavored in good faith to comply with the local preference agreement.

City Attorney Galstan suggested Council make a tentative decision to allow staff the opportunity to provide written findings to support their decision to be adopted on the Consent Calendar for the next meeting.

Following discussion the Council majority agreed McBail Company and Thomas Plumbing have acted in good faith but currently are not in compliance with the preference agreement. They suggested the \$1,900.00 provided for the investigation be returned to Local 159, no penalty be imposed on McBail Co. and the imposition of a period of time for McBail to meet the compliance requirements.

Councilmember Kalinowski stated he felt additional permits should not be pulled unless or until McBail Company meets the terms of compliance.

Councilmember Davis stated he felt McBail was not in compliance but there had been a good faith attempt. He voiced his support for local preference.

Councilmember Simonsen discussed an Assembly Bill that would put restrictions on non-union apprenticeship programs and the importance of diversity and allowing competing apprenticeship programs in the community.

On motion by Councilmember Conley, seconded by Councilmember Kalinowski, the Council moved to find McBail out of compliance; allow McBail 30 days to come into compliance; return to Council for formal findings on January 8, 2002 with the deposit funds to be returned to Local 159; McBail would not be fined \$100.00 per day. The motion carried by the following vote:

Ayes: Kalinowski, Conley, Freitas

Noes: Simonsen, Davis

Mayor Freitas declared a recess at 10:12 P.M. The meeting reconvened at 10:21 P.M. with all Councilmembers present.

**6. ADOPTION OF THE JOINT EXERCISE OF POWERS AGREEMENT BY AND AMONG THE CITY OF ANTIOCH, THE CITY OF BRENTWOOD, THE CITY OF OAKLEY, AND THE COUNTY OF CONTRA COSTA RELATING TO THE REGIONAL FEE AUTHORITY #1102-03**

Public Works Director Brandt presented the staff report dated December 5, 2001, recommending the City Council approve the resolution authorizing the Mayor to sign a Joint Exercise of Powers Agreement by and between the cities of Antioch, Brentwood, Oakley, and County of Contra Costa relating to the Regional Fee Authority.

Councilmember Simonsen voiced his opposition to the additional funds collected by the cities of Antioch, Brentwood, Oakley and Contra Costa County being expended within the incorporated City of Pittsburg. He expressed concern for the legality of imposing a second fee from a new authority on developments.

Lowell Tunnison clarified this agreement excludes projects within the City of Pittsburg from this funding program and stated the City would be imposing one regional transportation fee to be paid with the issuance of the the building permit.

In response to Mayor Freitas, City Attorney Galstan stated he would respond to Councilmember Simonsen's concerns when this item returns to Council with an ordinance.

**RESOLUTION NO. 2001/162**

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



Mayor Freitas adjourned to the Antioch Development Agency. City Clerk Martin called the roll with all Agencymembers present.

## **10. AGENCY CONSENT CALENDAR**

**A. APPROVAL OF AGENCY WARRANTS** **#401-02**

**B. 2000/2001 ANNUAL REPORT ON AGENCY ACTIVITY** **#902-01**

On motion by Agencymember Conley, seconded by Agencymember Simonsen, the Agency unanimously approved the Agency Consent Calendar.

Mayor Freitas adjourned to the Antioch City Council.

**PUBLIC COMMENTS** - None

## **COUNCIL REPORTS/COMMUNICATIONS**

Mayor Freitas reported one-year ago was the swearing in of 3 of the 5 members of the City Council and underscored the respectful civilized manner in which the Council conducts business. He stated he was proud of the accomplishments of the Council and City staff and thanked them for their participation this past year. He wished everyone a happy, holy and safe holiday.

Councilmember Kalinowski reported he had attended the Nutcracker performance noting it was a good production. He stated the Council had received a nutcracker statue as a token of appreciation for their continued support of the organization. He wished everyone a happy holiday.

Councilmember Conley wished everyone a happy holiday. He reported he had attended the Nutcracker performance with Councilmember Kalinowski, which was a successful event. He urged them to expand to two performances.

Councilmember Simonsen commented on the professional manner in which the Council meetings are now conducted, adding Mayor Freitas' leadership had been key in making this a successful year and thanked him for his consideration of all the Councilmembers. He reviewed the recent changes for AT&T Broadband billing and services and urged anyone with additional fees for services they did not want to notify AT&T. He announced he would be attending the League of California Cities Annual Conference in Sacramento representing Antioch and meeting with the new grass roots coordinator for this area. He reported she would be agendized for the January 22, 2002 City Council meeting. He announced he would be attending the San Francisco Bay Area Water Transportation Authority CAC meeting in San Francisco on December 12, 2001 and would provide a report at the next Council meeting regarding future ferry service to Eastern Contra Costa County. He wished everyone the happiest and safest of holidays.

Mayor Freitas thanked City Clerk Martin, Executive Secretary Debbie Smith, and Deputy City Clerk Janet Chalk for all their hard work.

### **STAFF COMMUNICATIONS**

City Manager Ramsey reminded the audience this would be the last public Council meeting for the month of December 2001. He wished everyone a happy holiday.

Mayor Freitas announced the next Council meeting would be January 8, 2002.

### **ADJOURNMENT**

With no further business, Mayor Freitas adjourned the meeting at 10:58 P.M., to the next regular Council meeting on January 8, 2002.

Respectfully Submitted

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L. Jolene Martin  
Antioch City Clerk