

**ANTIOCH CITY COUNCIL
ANTIOCH DEVELOPMENT AGENCY**

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

**October 11, 2005
Council Chambers**

Mayor Freitas called the meeting to order at 7:03 P.M., and City Clerk Martin called the roll.

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

PLEDGE OF ALLEGIANCE

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

PROCLAMATIONS

Help People With Intellectual Disability Days, October 21, 22 and 23, 2005

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

Councilmember Kalinowski presented the proclamation proclaiming October 21, 22, and 23, 2005 as *Help People with Intellectual Disability Days* to Richard Soliz who accepted the proclamation on behalf of the Knights of Columbus and thanked the City Council for the recognition.

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Donna Conley, representing Macy's of Antioch, announced they were sponsoring the AThanks for Sharing Program@ to help local charities. She urged anyone wishing to participate in the program to contact a Macy=s sales representatives at the Somersville Road store for details.

PUBLIC COMMENTS

Emil Stein, Antioch resident, questioned when the following items would be rectified at the Antioch Auto Center: capping of the soundwall; removal of the concertina wire, and; replacement of the "no right hand turn sign".

Ken Lee, Antioch resident, reported the "No Right Hand Turn" sign was missing from the northern driveway at the Antioch Auto Center. He reiterated the Ano right turn@ and the accompanying signage, were requirements in the conditions of approval for the project. In addition, he expressed concern regarding water runoff from the property was currently draining into Markley Creek.

Rosanna Clark, Antioch resident, representing residents of Vista Della Montagna, expressed concern regarding early garbage collection service at the Lone Tree Convalescent Home. She reported she had addressed this issue with Allied Waste and Julie Haas-Wajdowicz, stating those efforts had resulted in temporarily changing the pick up time. She noted, however, they were now coming prior to 6:00 A.M..

Mayor Freitas requested Ms. Haas-Wajdowski and Ms. Hurl, Allied Waste, meet with Ms. Clark before the end of the meeting to resolve the issue.

Nancy Brandt, Mayor's Team Captain for Relay for Life 2005, reported the Antioch/Pittsburg Relay for Life raised a total of \$313,009. She added the Mayor's team finished 3rd in fund raising at \$10,750. She thanked the City Council and Boards and Commission members who participated in the event as well as Mayor Freitas for sponsoring the team and giving her the opportunity to be involved.

Mayor Freitas thanked Ms. Brandt, Councilmembers, Staff, Boards and Commissioners for their participation and support.

1. PRESENTATION BY LONE TREE GOLF COURSE#1402-01

Jack Oakley introduced members of the Lone Tree Golf Course Board and gave a brief overhead presentation on the Clubhouse/Event Center amenities and the scheduled First Tee Junior Golf Program. He encouraged the community to visit the clubhouse and thanked the City Council and staff for their support. Contact information was given for anyone interested in participating in the First Tee program.

Councilmember Simonsen encouraged Mr. Oakley to contact CDBG Coordinator Kennedy to obtain information on applying for grant funding.

Mayor Freitas, on behalf of the City Council, staff, and community thanked Mr. Oakley and the Board of Directors for developing their vision into a reality.

2. COUNCIL CONSENT CALENDAR

A. APPROVAL OF COUNCIL MINUTES FOR SEPTEMBER 13 and 20, 2005.....#301-02

B. APPROVAL OF COUNCIL WARRANTS#401-02

C. REJECTION OF CLAIM#704-07
1. Leticia Luna, #05/06-1591 (towing fee)

D. LEGISLATION AND ADVOCACY#701-04

E. ORDINANCE 1058-C-S ADDING SECTIONS 3-9.03 THROUGH 3-9.08 TO THE ANTIOCH MUNICIPAL CODE, DEALING WITH THE REGIONAL TRANSPORTATION IMPACT MITIGATION FEE#701-05

F. RESOLUTION NO. 2005/107 APPROVING FIRST AMENDMENT TO SITE AGREEMENT, 4506 VIA DORA DRIVE (NEW CINGULAR WIRELESS PCS)#1001-05

- G. **APPROVAL OF TRAFFIC SIGNAL AGREEMENT, CITY OF ANTIOCH/SLATTEN RANCH SHOPPING CENTER (LONE TREE WAY AND EMPIRE AVENUE) (PW 655)....#202-03**
- H. **RESOLUTION NO. 2005/108 ACCEPTING THE ENGINEER'S REPORT AND SETTING THE DATE FOR A PUBLIC HEARING FOR THE HILLCREST AVENUE - WILDFLOWER DRIVE BENEFIT DISTRICT (PW 357-307-04-BD)#1102-04**
- I. **RESOLUTION NO. 2005/109 AUTHORIZING THE MAYOR TO SIGN A DEFERRED IMPROVEMENT AGREEMENT WITH JIM'S AUTO BODY (AR-04-41).....#804-02**

On motion by Councilmember Conley, seconded by Councilmember Kalinowski, the Council unanimously approved the Council Consent Calendar with the exception of item B, F, and G which were removed for further discussion.

Item B - In response to Mr. Lee, Mr. Tasker clarified warrants #90931 and #90964 were not funds paid out to construct the soundwall at the Antioch Auto Dealership. Mayor Freitas requested Mr. Tasker inform Mr. Lee which project was paid for by those funds.

On motion by Councilmember Conley, seconded by Councilmember Simonsen, the City Council unanimously approved item B.

Item F - In the future, Mayor Freitas requested the City review the formula to determine a fair and equitable rental amount to maximize the City=s revenues.

On motion by Councilmember Conley, seconded by Councilmember Simonsen, the City Council approved item F with the following vote:

Ayes: Davis, Conley, Simonsen, Freitas Abstain: Kalinowski

Item G - In response to Mayor Freitas, City Engineer/Community Development Director Brandt clarified the intent of the agreement was for the City to be able to install the traffic signal at any time, using monies the developer was to be reimbursed for through a previous agreement.

Councilmember Kalinowski requested the next cycle of traffic signal evaluations include looking at this area with the Caltrans standards.

Mayor Freitas stated that although the Council may approve the item, in the future, the signalization would occur at the main entrance of Target and Mervyn's.

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

PUBLIC HEARINGS

3. KAREN SYLVESTER IS APPEALING A DECISION OF THE PLANNING COMMISSION IN REGARDS TO A REQUEST FOR A USE PERMIT TO ESTABLISH A DAY CARE CENTER FOR 34 CHILDREN FROM INFANT TO AGE SIX. HOURS OF OPERATION WOULD BE MONDAY THROUGH SATURDAY FROM 6 A.M. TO 6 P.M. EMPLOYEES WILL INCLUDE ONE STATE-LICENSED DIRECTOR, TWO TEACHERS, AND ONE TEACHER'S AIDE. THE PROJECT SITE IS LOCATED AT 5100 SIMS MOUNTAIN COURT (APN 055-300-059) UP-05-11.....#202-10

City Attorney Galstan reported the applicant had withdrawn the appeal; no further action was needed.

On motion by Councilmember Conley, seconded by Councilmember Davis, the City Council unanimously tabled item #3.

4. DEVELOPMENT AGREEMENT PERTAINING TO DEL WEBB (PULTE HOMES) SENIOR HOUSING PROJECT LOCATED IN FUA #1#202-01

City Attorney Galstan presented the staff report dated September 22, 2005 recommending the City Council: A) Approve addendum to General Plan Update EIR; B) Introduce the ordinance by title only, and; C) Introduce the ordinance approving the development agreement. He made the following addendum to the original staff report:

- § Remove Exhibit B from the Development Agreement
- § Attachment C - Section 3 change reference to "Ledger Dispatch" to "Ledger Dispatch or successor publication".
- § Development Agreement - Section 1.4 - strike the words "in the southwest portion"
- § Development Agreement - Section 6.3 - strike entire section
- § Development Agreement - Section 6.4 (formally 6.5) add "Del Webb further agrees to indemnify, defend and hold harmless the City for any claims by current or future owners of the Royal Formosa Property or any other property adjacent to the Royal Formosa Property relating to the City's approval or implementation of the Future Project Approvals
- § Development Agreement - Section 9.1 - first sentence - change "October" to "August"
- § Development Agreement - Section 10.11 - Add provision Effectiveness of Agreement and change "December 16, 2005" to "December 15 2005"

Mayor Freitas reported the City Council was in receipt of correspondence dated October 11, 2005 from Kaiser requesting deletion of the language in the Pulte Development Agreement regarding the realignment of Sand Creek Road as well as any site plan depicting uses inconsistent with the alignment of Sand Creek Road. Mayor Freitas clarified this issue had been achieved through City Attorney Galstan's previous recommendations.

Mayor Freitas reported the City Council had received an email from Dee Vieira requesting the City Council not consider approval of this item in light of the Measure "K" campaign.

Mike Surpa, Manager of the Del Webb Division of Pulte Homes, stated they were looking forward to the opportunity of bringing their senior community to Antioch and discussed the

benefits of the project. He urged the City Council to approve the Development Agreement to lock in the policies and maximum densities of the 2003 General Plan, while allowing them to move forward with smart planning and resolution to the outstanding issues.

David Reid, representing the Greenbelt Alliance, voiced his concern this Development Agreement was a departure from the typical planning procedure and could be unconstitutional by disallowing voters to have their voices heard through the initiative process. He urged the City Council to deny this application for reconsideration after the November 8th election or until the developer had submitted detailed plans for the project.

Matthew Gray, representing Del Webb, clarified the Development Agreement commits their company to a baseline set of contributions and community benefits as well as acknowledges the need to go through a detailed planning process pursuant to the City's General Plan. He urged the City Council to approve the Development Agreement.

Dale Watson, Antioch resident, expressed concern as the citizens had not had the opportunity to review the benefits and costs related to this project. He urged the City Council to reject the Development Agreement, preserve the citizens rights and have a moratorium on growth until there was adequate infrastructure to support such a project.

Devi Lanphere, discussed the importance of this project for the future planning of Antioch and urged the City Council to support the Development Agreement giving the developer the assurances they needed to move forward with proper planning.

Mike Daley, representing the Sierra Club, urged the City Council to postpone making a decision on this item until after the November election.

Mr. Serpa reported their studies had shown the Williamson property was the most developable land, and its development would produce the fewest impacts to the community.

With no further speakers, Mayor Freitas closed the Public Hearing.

Councilmember Simonsen discussed the importance of honoring the General Plan and stated he felt the Development Agreement was a responsible plan for the development of this area.

Councilmember Kalinowski expressed concern it was inappropriate timing for this project . He also felt the mechanisms and process were a deviation from past practices.

Mayor Freitas stated the development agreement was out of sequence, however, it was well defined, good for Antioch and would provide an opportunity to build a third High School, therefore he would be supporting this project. He added the developer would need to go through the public process, including an EIR, Planning Commission, the Residential Development Allocation Committee and City Council Public Hearings.

Councilmember Conley agreed with Mayor Freitas and noted this project was within the City boundaries and part of the existing General Plan.

City Attorney Galstan clarified this type of Development Agreement was not uncommon in the county or state and was, in fact, very similar to the City=s recent Development Agreement for the Kaiser project.

In response to Councilmember Simonsen, City Attorney Galstan stated he would correct Section 3 of the ordinance, deleting language related to the newspaper being printed and published in the City of Antioch.

On motion by Councilmember Conley, seconded by Councilmember Simonsen the City Council approved: A) Approved addendum to General Plan Update EIR; B) Introduced the ordinance by title only; and C) Introduced the ordinance approving the development agreement with the following changes and deletions:

- § Remove Exhibit B from the Development Agreement
- § Attachment C - Section 3 change reference to "Ledger Dispatch" to "Ledger Dispatch or successor publication".
- § Development Agreement - Section 1.4 - strike the words "in the southwest portion"
- § Development Agreement - Section 6.3 - strike entire section
- § Development Agreement - Section 6.4 (formally 6.5) add "Del Webb further agrees to indemnify, defend and hold harmless the City for any claims by current or future owners of the Royal Formosa Property or any other property adjacent to the Royal Formosa Property relating to the City's approval or implementation of the Future Project Approvals
- § Development Agreement - Section 9.1 - first sentence - change "October" to "August"
- § Development Agreement - Section 10.11 - Add provision Effectiveness of Agreement and change "December 16, 2005" to "December 15 2005"

The motion carried the following vote:

Ayes: Freitas, Davis, Conley, Simonsen

Noes: Kalinowski

Mayor Freitas declared a recess at 8:48 P.M. The meeting reconvened at 8:58 P.M. with all Councilmembers present.

COUNCIL REGULAR AGENDA

5. UPGRADE OF CITY OF ANTIOCH WEBSITE#106-01

Assistant City Manager Pappas - Diaz presented the staff report dated September 29, 2005 recommending the City Council direct staff to implement an upgrade of City of Antioch website.

Information Systems Director Gegg gave a brief overview of the proposed upgrade to the City=s website.

Paul Jacobson, the City=s webmaster, gave a brief overview of anticipated changes that will be occurring to the industry and the city's website in the future.

In response to Mayor Freitas, Mr. Jacobson stated he would update the website to include changes made to the staff report this evening.

Following discussion the City Council requested staff consider adding the following features:

- § Council meetings via live feeds from the website
- § Paperless system
- § Locally elected official links page
- § Link for Economic Development/Job Creation

Mayor Freitas stated the website is a powerful tool and urged Mr. Jacobson to make it as complete and user friendly as possible.

Devi Lanphere, Economic Development Commission, stated the development of the website was a collaborative effort and she urged the City Council to make this project an ongoing process for improvements. She requested the City Council and department heads provide current photographs to add to the website, in addition she urged each department to periodically check the website to ensure the information was kept current.

Ken Lee stated the Police Commission meeting was not on the website calendar and suggested adding emergency preparedness information.

Mr. Gegg clarified it was up to the liaison to the City or department head to contact himself or the webmaster to provide meeting information. He noted there would be an entire section devoted to emergency preparedness with assembly places clearly articulated.

On motion by Councilmember Simonsen, seconded by Councilmember Kalinowski, the City Council directed staff to implement the upgrade to the City of Antioch website.

6. REVIEW OF ALMONDRIDGE EAST DESIGN REVIEW BOARD APPROVAL....#202-03

Associate Planner Albro presented the staff report dated September 28, 2005 recommending the City Council receive and file the report.

Mayor Freitas requested policy decisions be explored and brought back to the City Council regarding the suggested strengthening of the masonry walls and single family homes being placed on corner lots.

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

7. RESOLUTION APPROVING THE DRAFT DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM FOR FY 05/06 AND AUTHORIZING STAFF TO CIRCULATE THE DRAFT FOR PUBLIC REVIEW AND COMMENTS (PW 386)#1102-01

RESOLUTION 2005/110

On motion by Councilmember Kalinowski, seconded by Councilmember Conley the City Council unanimously adopted the resolution amending attachment "A", page 2, VI, to show Director of Community Development Brandt's email address.

8. BROWN ACT COMPLAINT RE GARBAGE FRANCHISE, AGENDA DESCRIPTION RELATING TO INCREASED FRANCHISE FEES.....#1201-05

City Attorney Galstan presented the staff report dated August 30, 2005 recommending the City Council determine that no "cure or correct" action is necessary.

Councilmember Simonsen stated he felt the franchise fee was separate from the rate increase and requested the City Council consider approving options B or C. He noted if option C was approved he felt it was important to find out what the franchise fees for waste collection were in other cities within Contra Costa County. He requested Allied Waste list franchise fees separately.

Councilmember Conley stated establishment of a new rate structure encompasses all fees and therefore he felt it was appropriately agendized.

Clinton Fields, Antioch resident, expressed concern the City Council voted to increase the rates without the community being advised and felt using the franchise fee to pay for road repairs is double taxing residents.

Councilmember Conley clarified this item was voted on by the City Council at a Public Hearing, which was properly noticed. He further noted the agreement they approved allowed for the roads to be repaired and residents to pay less for garbage service.

Councilmember Kalinowski agreed this item had been heard as a Public Hearing item, duly noticed and heard by the City Council and the complaint was without merit.

Councilmember Davis stated that while he supported the franchise fee increase, he could not support the following motion due to the fact he had received quite a bit of communication from the residents who felt they were not completely notified of the franchise fee.

On motion by Councilmember Kalinowski, seconded by Councilmember Conley the City Council determined a no "cure or correct" action was necessary. The motion carried the following vote:

Ayes: Kalinowski, Conley, Freitas

Noes: Simonsen, Davis

City Attorney Galstan reported Bond Council wrote the resolution for item #9, specifically referring to the City Council, therefore he suggested not adjourning to the Antioch Development Agency.

9. DETERMINATION TO UNDERTAKE THE REFINANCING OF THE CITY OF ANTIOCH PUBLIC FINANCING AUTHORITY (APFA) LEASE REVENUE BONDS (SERIES 2002A) AND THE ANTIOCH DEVELOPMENT AGENCY TAX ALLOCATION BONDS SERIES 1994.....#902-01

Finance Director Tasker presented the staff report dated October 6, 2005 recommending the City Council adopt the resolution.

In response to Mayor Freitas, Finance Director Tasker clarified if approved the Financial Advisor with Bond and Financial Council will provide Council with all financing information in final form for Council review and approval.

Jason Richter, speaking on behalf of Gardener, Underwood & Bacon as well as Bond Council, stated that this action would allow them the opportunity to present a structured proposal to be reviewed and accepted by the City Council at a later date.

Finance Director Tasker reiterated the City would spend no money unless the Bond deal was approved by the City Council.

RESOLUTION NO. 2005/111

On motion by Councilmember Conley, seconded by Councilmember Davis the City Council unanimously adopted the resolution amending all references to "he Clerk" to read "the City Clerk" and based on Council's direction it would be the City of Antioch or some other properly designated agency.

PUBLIC COMMENTS

Devi Lanphere announced the Antioch Chamber of Commerce would be hosting the following events: Forum on Measure K and Proposition 76, October 17, 2005 from 7:00 to 9:00
State of the Schools, November 3, 2005 at Golden Hills Church in Brentwood.

STAFF COMMUNICATIONS

Assistant City Manager Pappas-Diaz reminded the City Council they would be holding a joint meeting with the Antioch Unified School District at Mno Grant School on October 18, 2005.

Councilmember Simonsen requested the following items be placed on the agenda, Magnet School and the Library Bond issue, specifically as it relates to the possibility for more participation by School District for joint use.

COUNCIL COMMUNICATIONS

Mayor Freitas congratulated Councilmember Simonsen for being elected as the President of the League of California Cities East Bay Division.

Councilmember Davis reported he attended the League of California Cities conference with four members of the Youth Council, who had enjoyed the experience.

Councilmember Kalinowski congratulated Councilmember Simonsen and encouraged him to hold meetings locally. He reported he attended the first annual Golf Tournament in memory of Police Officers Ray Giacomelli and Larry Lassiter, which was a very successful event.

Councilmember Simonsen gave a brief update on the League of California Cities conference. .

Mayor Freitas reported he attended the Mayor's Conference in Lafayette.

City Attorney Galstan announced Finance Director Tasker was retiring and would be missed.

With no further business, Mayor Freitas adjourned the meeting at 10:14 P.M. to a joint meeting with the Antioch Unified School District on October 18, 2005 at 7:00 P.M. at Mno Grant Elementary School.

Respectfully Submitted

L. JOLENE MARTIN, CMC

Approved

DONALD P. FREITAS, Mayor

Attest

L. JOLENE MARTIN, CMC