

ANTIOCH CITY COUNCIL

Regular Meeting
7:00 P.M.

September 9, 2008
Council Chambers

6:15 P.M. - CLOSED SESSION

1. **CONFERENCE WITH LEGAL COUNSEL EXISTING LITIGATION:** Gloria Vaughn, Yvonne White and George Louie for themselves and on behalf of all others similarly situated v. City of Antioch et al., Contra Costa County Superior Court, Case No. C07-00045. This Closed Session is authorized by Government Code §54956.9(a).
2. **CONFERENCE WITH LEGAL COUNSEL EXISTING LITIGATION:** Administrative Civil Liability Complaint No. R5-2006-0512 issued by the California Regional Water Quality Control Board Central Valley Region to the City of Antioch and Somersville-Gentry, Inc. re: Markley Creek; SPPI-Somersville, Inc. et al. v. TRC et al. (USDC N.D. Cal Case No C04-2648 SI); SPPI-Somersville, Inc. et al. v. Chevron (USDC N.D. Cal. Case No. C07-05824 SI). This Closed Session is authorized pursuant to Government Code §54956.9 (a)

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

PRESENT: Council Members Simonsen, Moore, Kalinowski, Davis and Mayor Freitas

Mayor Freitas reported the City Council had been in Closed Session; there was no reportable action.

PLEDGE OF ALLEGIANCE

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

PROCLAMATIONS

Eden Housing, 40th Anniversary
California Cleanup Day, September 20, 2008
Constitution Week, September 17- 23, 2008
Family Day A Day to Eat Dinner with Your Children, September 22, 2008
Falls Prevention Awareness Week, September 21 - 27, 2008

On motion by Councilmember Davis, seconded by Councilmember Moore, the Council unanimously approved the proclamations.

Councilmember Moore presented the proclamation celebrating *Eden Housing's 40th Anniversary* to Woody Karp representing Eden Housing who accepted the proclamation, thanked the City Council for the recognition and gave a brief overview of the Digital Connector Program.

Councilmember Davis presented the proclamation proclaiming September 20, 2008 as *Coastal Cleanup Day* to Park Superintendent Palmeri, who presented proclamations to the following

individuals: Patricia O'Quinn, representing GFW; Sal Listik, representing Straw Hat Pizza, and; Jerry Wilson, representing USS POSCO.

Councilmember Simonsen presented the proclamation proclaiming September 21 – 27, 2008 as *Falls Prevention Awareness Week*.

Mayor Freitas announced the distribution of the agenda, it was determined two additional items, each bearing a measure of urgency, were added to the agenda. Staff is requesting Council approve the inclusion of the following items on this agenda as follows:

Urgency Item #1 - *RELEASE OPINION WITH REGARDS TO THE MAYOR PRO TEM TITLE*
Urgency Item #2 - *APPOINTMENT TO THE CONTRA COSTA INTERJURISDICTIONAL COUNCIL ON HOMELESSNESS.*

On motion by Councilmember Simonsen, seconded by Councilmember Davis, the City Council unanimously approved the addition of Agenda Item #8 – *"DIRECTION TO THE CITY ATTORNEY TO RELEASE THE LEGAL OPINION REGARDING THE USE OF "MAYOR PRO TEM AS A BALLOT DESIGNATION."*

On motion by Councilmember Simonsen, seconded by Councilmember Davis, the City Council unanimously moved to add Agenda Item #9 – *"APPOINTMENT TO THE CONTRA COSTA INTERJURISDICTIONAL COUNCIL ON HOMELESSNESS."*

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Councilmember Kalinowski announced the "Nunn/Wilson Children's Fundraiser" would be held on September 20, 2008 at Prewett Family Water Park from 1:00 – 10:00 P.M. He acknowledged Discovery Builders' generous donation to the event.

PUBLIC COMMENTS

Bob Oliver, Antioch resident, stated he felt there was a lack of code enforcement by the City and provided a photograph of a trailer of concern. He discussed issues he would like addressed by candidates running for Mayor and stated he hoped, when requested, staff would provide him with a listing of grandfathered RVs.

Emil Stein, Antioch resident, commended the Antioch Police Department for their professionalism during a recent bank robbery and reiterated his concerns regarding vehicle transports parking in the center lane of Auto Center Drive.

Ken Lee, Antioch resident, spoke to the speaker rules at City Council meetings and requested all those wishing to speak be recognized.

Walter Ruehlig and Clare Smith, representing the Antioch School Board thanked Mayor Freitas and Councilmember Simonsen for attending the Dozier Libbey High School grand opening and gave a brief update on the activities of the Antioch Unified School District.

Steve Hoagland, representing Boy Scouts of America, invited the City Council and staff to attend Advance Camp on September 26-27, 2008 at the Contra Costa County Fairgrounds. He announced next year would be the 10th Anniversary of Advance Camp and 100th Anniversary of Boy Scouts of America. He requested the City work with them in planning a parade and celebration to honor those events on the last Saturday of September 2009.

Councilmember Davis stated he had been installed as the District Chairman for the Boy Scouts of America. He thanked Mr. Hoagland for participating in the planning of these events.

Devi Lanphere, Antioch Chamber of Commerce, announced the following events and provided contact information for anyone wishing to receive additional information:

- Contra Costa Council Supervisor Forum on September 17, 2008
- East County Economic Summit on September 26, 2008
- Clear Vision 20/20 Key on Water Issues on October 9, 2008

COUNCIL RESPONSE TO PUBLIC COMMENTS

In response to Councilmember Simonsen, Chief Hyde stated he would gather the information from Mr. Oliver and work on the trailer issue.

Councilmember Simonsen announced the Delta Protection District will be holding a meeting on September 25, 2008 at the City Maintenance Yard.

COUNCIL CONSENT CALENDAR

- A. APPROVAL OF COUNCIL MINUTES FOR JULY 22 and AUGUST 12, 2008**
- B. APPROVAL OF COUNCIL WARRANTS**
- C. APPROVAL OF TREASURER'S REPORT FOR JULY 2008**
- D. REJECTION OF CLAIM**
 - 1. Janice Louisville 08/09-1827 (property damage).
- E. LEGISLATION AND ADVOCACY**
- F. DESIGNATION OF VOTING DELEGATE FOR 2008 LEAGUE ANNUAL CONFERENCE**
- G. REQUEST FOR OVERNIGHT TRAVEL (FOUR NIGHTS) LEAGUE OF CALIFORNIA CITIES**
- H. ORDINANCE NO. 2017-C-S REZONING APPROXIMATELY 13.5 ACRES, COMPRISING THE BUCHANAN CROSSINGS SHOPPING CENTER SITE (APN 074-080-013), FROM REGIONAL COMMERCIAL (C-3) TO PLANNED DEVELOPMENT DISTRICT (P-D) (Introduced 8/12/08)**

- I. **RESOLUTION NO. 2008/82 APPROVING FINAL MAP AND IMPROVEMENT PLANS, ANNEXING TO THE CITY WIDE LIGHTING AND LANDSCAPING DISTRICT 5, ZONE 1 AND AUTHORIZING THE CITY MANAGER TO SIGN THE SUBDIVISION AGREEMENT AND THE AGREEMENT FOR ACQUISITION OF PROPERTY FOR ROAD IMPROVEMENTS FOR PHILLIPS LANE IMPROVEMENTS AND RESOLUTION NO. 2008/83 ACCEPTING GRANT DEED FOR ONE-FOOT STRIPS FOR ALMONDRIDGE EAST, UNIT 10, (KB HOME SOUTH BAY, INC.), TRACT NO. 8880 (PW 485-10)**
- J. **RESOLUTION NO. 2008/84 ACCEPTING WORK AND AUTHORIZING CITY ENGINEER TO FILE A NOTICE OF COMPLETION FOR THE WATER AND SEWER MAIN INSTALLATION AND ROADWAY REHABILITATION PROJECT, (P.W. 503-10)**
- K. **RESOLUTION NO. 2008/85 AUTHORIZING AN UPDATE TO THE CLASS SPECIFICATION AND ADJUSTMENT TO THE SALARY FOR THE POSITION OF CAPITAL IMPROVEMENT DIRECTOR**

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

Item J – Capital Improvements/Water Rights Director Harrington stated he had this item pulled to resubmit a new staff report adding language to place a 35-day hold on the retention funds for the project.

On motion by Councilmember Moore, seconded by Councilmember Davis, the City Council unanimously approved item "J" with a 35 day hold on the retention funds.

PUBLIC HEARINGS

- 2. **RESOLUTION ADOPTING A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM FOR THE PREWETT PARK COMMUNITY CENTER AND POLICE SERVICE CENTER SITE**

Project Manager Karste presented the staff report dated September 2, 2008 recommending a motion to adopt the resolution.

Councilmember Simonsen requested staff provide information on the use of the funds from Costco currently used to mitigate the burrowing owls within the budget.

In response to Mayor Freitas, Project Manager Karste clarified the presentation he made regarding \$90M was at the beginning of this process, and based on the complete build out of the master plan; there had been no vote from the City Council for or against said project.

Mayor Freitas opened the Public Hearing.

Dee Vieira, Antioch resident, voiced her support for the mitigation process as proposed and spoke of the importance of considering the spacing and species of plants used in the buffer zone.

Mayor Freitas closed the Public Hearing.

RESOLUTION NO. 2008/86

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

3. RESOLUTION MAKING FINDINGS AND ORDERING EXTENSION OF THE TEMPORARY CLOSURE OF EMPIRE MINE ROAD BETWEEN MESA RIDGE DRIVE AND DEER VALLEY ROAD

Mayor Freitas announced the City Council had received a letter from Louisa Zee Kao, and directed staff to ensure it's contents would be included as part of the public record.

Assistant Engineer Bernal presented the staff report dated August 18, 2008 recommending the City Council adopt the resolution.

Chief Hyde reported there had been a marked reduction in calls for service, a direct benefit to the community; therefore, staff requested the continued closure of Empire Mine Road.

Mayor Freitas opened the Public Hearing.

Jack Roddy, representing himself and other ranchers in the area of Empire Mine Road, spoke to past criminal activity in the area and reported the destruction had ceased since the road's closure. He urged the City Council to adopt the resolution.

Mayor Freitas closed the Public Hearing.

RESOLUTION NO. 2008/87

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

4. CITY GATE/ THE EQUUS GROUP/HILLCREST SUMMIT REQUESTS APPROVAL OF A REZONE FROM PLANNED BUSINESS CENTER (PBC) TO PLANNED DEVELOPMENT (PD) AND APPROVAL OF FINAL DEVELOPMENT PLAN LOCATED AT THE INTERSECTION OF HOLUB LANE AND EAST EIGHTEENTH STREET (APN S: 051-200-025, -26 AND -036) FILE: Z-08-02, PD-08-06

Mayor Freitas announced there was an error in the agenda in the description for the City Gate project. The description should read as follows: "CITY GATE/ THE EQUUS GROUP REQUESTS APPROVAL OF A REZONE FROM PLANNED BUSINESS CENTER (PBC) TO PLANNED DEVELOPMENT (PD) AND APPROVAL OF FINAL DEVELOPMENT PLAN

LOCATED AT THE INTERSECTION OF HOLUB LANE AND EAST EIGHTEENTH STREET (APN S: 051-200-025, -026 AND -036) FILE: Z-08-02, PD-08-06.”

Associate Planner Gentry presented the staff report dated September 5, 2008 recommending the City Council: A) Motion to approve the resolution adopting the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; B) Motion to read the ordinance by title only; C) Motion to introduce the ordinance rezoning 15.92 acres making up the project site to the Planned Development District (PD); and, D) Motion to adopt the resolution approving the Final Development Plan.

Mayor Freitas requested the site plan (Exhibit A, Attachment J) be revised with breaks in the dividing lines to show there was flexibility for changing the sub areas. Speaking to the Table of Land Use Regulations (Attachment I) he stated he would not support a Laundromat in this project.

Mayor Freitas opened the Public Hearing.

Brent Aasen, Equis Group, thanked staff for their cooperation in the development of the project. He clarified the site plan is conceptual and sub area lines may be moved to accommodate other uses. He stated he shared his concerns regarding some of the proposed uses in the Table of Land Use Regulations, noting criteria for operators was quite narrow. He noted they would prefer to have this project approved this evening, however, if there were specific adjustments Council would like to make, he would support discussing those issues with the City prior to approval.

Robert Selders, Selders and Associates, addressed the concept of the PD zone noting they would be agreeable to meet with the City to discuss the uses in the Table of Land Use Regulations.

Mayor Freitas closed the Public Hearing.

Mayor Freitas suggested continuing this item to September 23, 2008 to allow two members of the City Council, staff and the applicant to review the Table of Land Use Regulations.

Councilmember Simonsen stated he would have an excused absence from the September 23, 2008 meeting and therefore requested he be allowed to participate in the review of this item.

Councilmember Moore also volunteered to review this item with staff and the developer.

Councilmember Kalinowski expressed concern for the conceptual site plan specifically open storage yards, setbacks and uses that could have a negative impact with adjacent residential property. He requested clarity with regards to the Veterinary Hospital and Hotel uses.

Mayor Freitas recommended holding this item over to September 23, 2008 and requested Councilmembers Moore and Simonsen work with staff and the developer.

On motion by Councilmember Simonsen, seconded by Councilmember Moore the City Council unanimously continued this item to September 23, 2008.

COUNCIL REGULAR AGENDA

5. APPOINTMENT TO CRIME PREVENTION COMMISSION (3 TERMS 1 UNEXPIRED, 2 EXPIRED)

Mayor Freitas thanked all the applicants for applying and encouraged those not appointed to continue to show interest. He nominated Georgia Koch to a four year term.

On motion by Councilmember Simonsen, seconded by Councilmember Davis the City Council appointed Georgia Koch to a four year term on the Crime Prevention Commission.

Mayor Freitas nominated Donna Wilson to a four year term on the Crime Prevention Commission.

On motion by Councilmember Simonsen, seconded by Councilmember Davis the City Council appointed Donna Wilson to a four year term on the Crime Prevention Commission

Mayor Freitas nominated Dennis Jeglum to the unexpired term on the Crime Prevention Commission.

On motion by Councilmember Simonsen, seconded by Councilmember Davis the City Council appointed Dennis Jeglum to the unexpired term on the Crime Prevention Commission

Mayor Freitas declared a recess at 8:54 P.M. The meeting reconvened at 9:12 P.M. with all Councilmembers present.

6. REVIEW OF ARCHITECTURE AND LANDSCAPING FOR BUCHANAN CROSSINGS SHOPPING CENTER LOCATED ON THE NORTHWEST CORNER OF BUCHANAN AND SOMERSVILLE ROADS (APN-074-080-013) (AR 07-08)

Project Consultant Gillarde presented the staff report dated August 28, 2008, recommending the City Council adopt the resolution approving AR-07-08, subject to the conditions contained in the resolution.

Robert Ashen, representing Catlin Properties, thanked the City of Antioch for the reception they had received and gave a brief history of the project. He noted they were in agreement with the recommendation from the Design Review Board and he urged the City Council to support the recommendation this evening.

Galen Grant, Craig and Grant Architect, gave a brief overview of the site plan and building elevations for the Buchanan Crossing Shopping Center.

Ken Lee, Antioch resident, expressed concern the fabric awnings could be subject to vandalism.

Project Consultant Gillarde clarified the applicant is conditioned to use an industrial product and maintain the awnings.

RESOLUTION NO. 2008/88

On motion by Councilmember Simonsen, seconded by Councilmember Davis the City Council unanimously adopted the resolution approving AR-07-08, subject to the conditions contained in the resolution

7. REQUEST FROM HAPGOOD THEATRE COMPANY FOR FINANCIAL SUPPORT

Deputy Director of Recreation Sanderson presented the staff report dated August 29, 2008 recommending the City Council motion to provide direction regarding Hapgood Theatre Company s request for a \$10,000 monetary contribution and in-kind donation of theater space valued at approximately \$9,100. He noted there is a correction to the staff report provided to the City Council this evening indicating the funds impacts would be to the special revenue funds.

Devi Lanphere, Antioch Chamber of Commerce and Hapgood Theatre Board of Directors and Mary Rocha Antioch resident, spoke in support of the Hapgood Theatre Company and urged the City Council to provide the financial support requested this evening.

Josy Miller, Artistic Director of the Hapgood Theatre Company, gave a brief history of the Theatre Company and stated she is available to answer questions.

Mayor Freitas stated he is opposed to the waiving of fees and if the City Council were to move forward, he suggested a contribution of \$20K, from the General Fund for this fiscal year. Additionally, during the next fiscal year the city address a fair and equitable mechanism for the granting of funds for other groups and foundations.

Councilmember Simonsen suggested looking at alternative funding mechanisms.

Ms. Miller stated they are prepared to pay the \$3,500 fee for theatre space for the previous 2007/08 season.

On motion by Councilmember Moore, seconded by Councilmember Davis the City Council unanimously approved: 1) \$20k contribution through the General Fund to the Hapgood Theatre Company: 2) Staff, Council and outside interest groups work out a mechanism during this year for funding through CDBG and/or outside contributions.

8. RELEASE OPINION WITH REGARDS TO THE BALLOT DESIGNATION

On motion by Councilmember Simonsen, seconded by Councilmember Moore the City Council directed the City Attorney to release the legal opinion related to the designation of the Mayor Pro Tem title.

9. APPOINTMENT TO THE CONTRA COSTA INTERJURISDICTIONAL COUNCIL ON HOMELESSNESS

Mayor Freitas nominated Councilmember Kalinowski to the Contra Costa Interjurisdictional Council on Homelessness.

On motion by Councilmember Simonsen, seconded by Councilmember Moore the City Council unanimously appointed Councilmember Kalinowski to the Contra Costa Interjurisdictional Council on Homelessness.

PUBLIC COMMENTS - None

STAFF COMMUNICATIONS

City Manager Jakel announced the following meeting schedule:

- November 18, 2008 (in lieu of the November 11, 2008 holiday date)
- November 25, 2008 (to be held for the possibility of meeting)
- December 9 2008 Election Proceedings
- December 16, 2008 Regular Meeting

City Attorney Nerland announced Ethics Training will be held September 16, 2008 at 2:45 p.m. She noted there is an online option and she would provide additional information in the future regarding dates available in Brentwood.

COUNCIL COMMUNICATIONS

Councilmember Davis requested the OPINION WITH REGARDS TO THE BALLOT DESIGNATION be agendized for the next meeting. He questioned if Mayor Freitas supported the expansion of Prewett Park to the \$90m level, to which, Mayor Freitas replied in the negative.

Councilmember Davis reported he attended a Breakfast to recognize volunteers in the community on September 6, 2008 at the Lone Tree Golf Course Event Center. .

Councilmember Simonsen thanked everyone responsible in hosting the Contra Costa Mayor Conference, which he noted, was an exceptional event. He reported he would have an excused absence for the September 23, 2008 City Council meeting for his attendance at the League of California Cities Annual Conference. He requested the City Council adjourn this evenings meeting in memory of Fairfield City Councilmember Matt Garcia.

Mayor Freitas requested staff provide a report from legal council on the City ordinances as they relate to the gas station building at "10th" and "A" Streets. He stated he would be adjourning in memory of Matt Garcia, Sergeant Starzyk and Jazzmin. Davis.

ADJOURNMENT

With no further business, Mayor Freitas adjourned the meeting in honor of Matt Garcia, Sergeant Starzyk and Jazzmin Davis at 10:20 P.M. to the next regular Council meeting on September 23, 2008.

Respectfully submitted:

L. JOLENE MARTIN, CMC, City Clerk