

ANTIOCH CITY COUNCIL

Regular Meeting
7:00 p.m.

August 10, 2004
City Council Chambers

6:00 p.m. - CLOSED SESSION

CONFERENCE WITH LABOR NEGOTIATOR. Agency Negotiator: Holly Brock-Cohn; Employee Organization: All represented groups. This Closed Session is authorized by Government Code §54957.6.

Mayor Freitas called the meeting to order at 7:03 p.m. on Tuesday, August 10, 2004 in the City Council Chambers and Minutes Clerk Eiden called the roll.

ROLL CALL

Present: Councilmembers Kalinowski, Davis, Conley, Simonsen and Mayor Freitas

Mayor Freitas reported that there was no reportable action for Closed Session.

PLEDGE OF ALLEGIANCE

ANNOUNCEMENTS OF BOARD AND/OR COMMISSION OPENINGS

Minutes Clerk Eiden announced two openings are available for the Design Review Board; applications must be received in the City Clerk's Office no later than 5:00 p.m. Friday, September 24, 2004.

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Lonnie Karste, Antioch Police Department, announced a Child Safety Faire would be held on Saturday, August 14, 2004, from 11:00 a.m. to 1:00 p.m. at the Prewett Family Water Park.

Devi Lanphere, President of the Antioch Chamber of Commerce, announced the groundbreaking for State Route Highway 4 would be held Saturday, August 14, 2004 at 9:00 a.m. behind Mimi's Café on Lone Tree Way. Secondly, the Antioch Chamber of Commerce Golf Event would be held on August 13, 2004 at the Lone Tree Golf Course.

PUBLIC COMMENTS

Douglas Tokes, 1705 Trembath Lane, stated he was disappointed in the City Council's action regarding the Cornerstone Christian Church expansion. He stated his appreciation to Councilmember Kalinowski for his honesty and Mayor Freitas in putting forward his recommendation to hold the motion for further study. He expressed his disappointment in the actions put forth by Councilmembers Davis, Simonsen and Conley.

Ken Lee, 1705 West 18th St., voiced his concern over issues pertaining to the nearby auto dealership.

Councilmember Conley stated that he had recently visited the Toyota and Dodge Dealerships. In regards to the Toyota Dealership he noted that there were two speakers, one under an overhang that is a music speaker that gets cut off when an individual is being paged, and there is another speaker inside the garage, not outside. Councilmember Conley stated that in visiting the dealership, he stood outside of the back of Mr. Lee's residence and noted that he could not hear the music and that when an individual was paged it was a very faint sound coming from the speaker. Councilmember Conley further noted that if the speakers were redirected towards Somersville Road, per Mr. Lee's suggestion, the speakers would then be directed towards Mr. Lee's residence. Councilmember Conley felt due to the location of the Dodge Dealership located at the corner of Somersville and 10th St. the Dodge dealership was not the problem, but that the noise was coming from the Chrysler Dealership which would be closer in proximity to Mr. Lee's residence. Furthermore, Councilmember Conley felt that the noise from the garbage pickup was experienced by all residents of the community, and that it was just a fact that garbage needed to be picked up.

Emil Stein, 1705 Tulip Drive, disagreed with Councilmember Conley and concurred with Mr. Lee's comments.

Mary McCormick, Public Relations Director for the Antioch Band Backers Association, expressed concern regarding the lack of funding for the marching band and stated the Antioch Unified School District had recently advised the Association that a mistake had been made in calculating the transportation fees for the marching band. While all parents had paid the required fees, the information was just recently given to the Association, two weeks before the last band review. Ms. McCormick noted that the Association would be unable to raise the appropriate funding, of \$8,000, in such a short time frame. Furthermore, up-to-date instruments were needed. She requested that the City Council sponsor the Antioch School Education Foundation Golf Tournament on behalf of the Antioch High School Marching Band which would be held on September 24, 2004. Ms. McCormick also announced the 21st Preview of Delta Preview of Champions Band Review would be held on September 25, 2004 at 9:00 a.m. at Antioch Middle School and noted trophies and ad sponsorships were needed.

Lonnie Karste announced the 9th Annual Antioch Schools Education Foundation Golf Tournament would be held on Friday, September 24, 2004 at the Lone Tree Golf Course starting at 8:30 a.m.

Walter Ruehlig, 4940 Green Hills Circle, expressed his appreciation to the City Council for his reappointment to the Library Commission. He also reported on the Chichibu Sister City Organization event that recently took place and expressed his appreciation to all who helped with the event. Mr. Ruehlig distributed information to the City Council regarding information on an upcoming event for a Martial Arts and Gospel Event with proceeds going towards the St. Jude Children's Hospital, scheduled for August 28, 2004 at Deer Valley High School.

Manny Soliz, Jr., resident, announced his candidacy for the City Council.

Councilmember Simonsen pulled Item Nos. E and H.

1. **COUNCIL CONSENT CALENDAR**
 - A. **APPROVAL OF COUNCIL MINUTES FOR JULY 13, 2004** #301-02
 - B. **APPROVAL OF COUNCIL WARRANTS** #401-02
 - C. **LEGISLATION AND ADVOCACY** #701-04
 - D. **ORDINANCE NO. 1029-C-S RESCINDING AND RE-ENACTING SECTION 6-1.22 OF THE ANTIOCH MUNICIPAL CODE, DEALING WITH DANGEROUS ANIMALS (Introduced 7/27/04)** #701-05
 - E. **URGENCY ORDINANCE NO. 1030-C-S ADDING PARAGRAPH (FF) TO SECTION 5-1.201 AND ADDING SECTION 1-5.03.1 TO THE ANTIOCH MUNICIPAL CODE, DEALING WITH VECTORS** #705-05
 - F. **AUTHORIZATION TO ADVERTISE FOR BIDS FOR PHASE 2 DOWNTOWN SANITARY SEWER REHABILITATION (PW 514-S2)** #1205-01
 - G. **RESOLUTION NO. 2004/102 ADOPTING THE 2002 AND 2003 CALENDAR YEAR GROWTH MANAGEMENT COMPLIANCE CHECKLIST FOR THE SALES TAX/TRANSPORTATION INITIATIVE (MEASURE "C")** #204-02
 - H. **DESIGNATION OF VOTING DELEGATE FOR 2004 LEAGUE ANNUAL CONFERENCE** #102-03
 - I. **RESOLUTION NO. 2004/103 ESTABLISHING CLASS SPECIFICATION AND SALARY FOR THE POSITION OF GIS COORDINATOR AND APPROVING RECLASSIFICATION OF GIS SUPPORT SPECIALIST** #502-02

On motion by Councilmember Conley and seconded by Councilmember Simonsen, the City Council approved Item Nos. A, B, C, D, F, G and I.

AYES: Kalinowski, Davis, Conley, Simonsen and Freitas

ITEM E - Councilmember Simonsen brought to the audience's attention the issues of West Nile Virus that are becoming prevalent within the surrounding counties and wanted the public to be aware that this Ordinance would allow the Mosquito and Vector Control District to take more appropriate and swifter actions to address this issue.

John Hall, Mosquito and Vector Control stated the Ordinance would allow the Mosquito District

to come upon property to eliminate any outstanding problems that may occur. He encouraged the public to pick up "free" mosquito fish that could be picked up at their Concord Location and wanted to the public to be aware precautions were available.

Craig Down, Manager of Mosquito & Vector Control, spoke to various dead birds that have been found throughout the community, and requested the public bring them to the Contra Costa County Mosquito and Vector Control Department District Office or call to have them picked up.

On motion by Councilmember Simonsen and seconded by Councilmember Conley, the City Council unanimously adopted Ordinance No. 1030-C-S, an Urgency Ordinance of the City Council of the City of Antioch adding Paragraph (FF) to Section 5-1.201 and adding Section 1-5.03.1 to the Antioch Municipal Code, Dealing with Vectors.

ITEM H

On motion by Councilmember Conley and seconded by Councilmember Kalinowski, the City Council unanimously choose Councilmember Simonsen to serve as a voting delegate and Councilmember Davis as an alternative voting delegate for the 2004 League Annual Conference.

COUNCIL REGULAR AGENDA

- 2. DAVIDON HOMES REQUESTS AN ALLOCATION OF 562 SINGLE FAMILY RESIDENTIAL UNITS OVER A FOUR-YEAR PERIOD UNDER THE RESIDENTIAL DEVELOPMENT ALLOCATION PROGRAM. THE SITE IS APPROXIMATELY 170 ACRES AND IS GENERALLY LOCATED WEST OF THE FUTURE STATE ROUTE 4 BYPASS AND NORTH OF LONE TREE WAY (APN 053-060-021 AND A PORTION OF 053-072-013) (RDA-04-1) #204-05**

Mayor Freitas announced the item would be continued to the City Council meeting of September 14, 2004. He also read a letter in its entirety dated August 6, 2004 from Mr. Remo Jacuzzi regarding Davidon Homes - Notice of August 10, 2004 Public Hearing.

In the letter, Mr. Jacuzzi stated he had not been able to attend the City of Antioch's August 10, 2004 Public Hearing and noted his family had sold most of the land for this development to Davidon. Furthermore, he noted, included in the project were 25-30 acres of land his family donated to the City of Antioch in 1994 which was to be named "Valeriano and Giuseppina Jacuzzi Knolls Open Space" in memory of his parents. Mr. Jacuzzi stated in his letter that he was not opposed to the project overall, but as noted at the Planning Commission's Public Hearing on July 21, 2004, which he did attend, he requested that better public access be provided to the open space for enjoyment by the public.

Mr. Jacuzzi wanted noted for the record: "We do not approve however of Davidon's proposed

location of Country Hills Road which is contiguous with our Delizia Ranch, LLC's commercial property. Davidon's proposed lot line adjustment, which we do not approve, severely impacts our commercial site by reducing its depth, usability and value. A better placement of Country Hills Road is needed."

On motion by Councilmember Conley and seconded by Councilmember Davis, the City Council unanimously continued the item to the City Council meeting of September 14, 2004.

3. FREDERICK LAMB/ASHLEIGH ESTATES REQUESTS AN ALLOCATION OF 12 SINGLE FAMILY RESIDENTIAL UNITS FOR 2004 UNDER THE RESIDENTIAL DEVELOPMENT ALLOCATION PROGRAM. THE SITE IS APPROXIMATELY 2.94 ACRES AND IS LOCATED ON THE SOUTH SIDE OF WORRELL RD. APPROXIMATELY 215 FEET EAST OF LONE TREE WAY (APN 071-072-015) (RDA-04-2) #204-05

Senior Planner Wehrmeister provided an overview of the Staff Report dated July 29, 2004. Mayor Freitas spoke to the proposed resolution and requested additional clarification from City Attorney Galstan regarding Item No. 2. City Attorney Galstan stated the CC&R's would be placed within the deeds of all property owners and if the area was not maintained, the City would then notify the property owners that landscaping could be enforced through enforcement proceedings. Mayor Freitas requested per the Resolution, Item Nos. 2 and 3 be changed subject to the City Attorney's language and also through the Tentative Map process.

Mayor Freitas explained the Public Comment protocol.

PROPONENTS:

William Wood, 301 Hartz Avenue, Danville, William Wood Architects, spoke to the proposed project and explained the concept of the site plan, as well as elaborating on the proposed landscaping. Mr. Wood distributed photographs of Lot Nos. 8 and 9 that look towards three properties that boarder Lone Tree Way. He stated the project had been lowered to prevent homes from towering over the adjoining property owners. He felt it would mitigate any concerns expressed by the existing neighbors.

Due to the existing concerns voiced by the neighbors, Mayor Freitas requested that Mr. Wood set up a neighborhood meeting in the near future with the existing neighbors to discuss any outstanding issues.

Mike Grillo, 15 Worrell Road, spoke in favor of the proposed project and felt the project would be an asset to the neighborhood, as well as increase home values.

Becky Manning, 132 Hillside Road, also spoke in favor of the proposed project and felt it would improve the existing neighborhood.

OPPONENTS:

Robert Serb, 4 Hillside Road, stated the developer had not made an appropriate attempt to contact him regarding his concerns, and requested a deed to any property that he would gain from this proposed project. Mr. Wood responded to Mr. Serb's comments in speaking to a displayed conceptual map and noted he was amenable to giving Mr. Serb a portion of the property through a Lot Line Adjustment.

Rose Cardinale, 8 Hillside Road, stated she was not necessarily opposed to the proposed project but voiced concerns regarding privacy issues and wanted assurance the developer would not place garbage-type items adjacent to her property. She further expressed a concern regarding grading issues and asked if soil compaction tests would be performed? She wanted to be assured there would be no future soil problems with the berm. Ms. Cardinale also wanted assurance that the developer would maintain the landscape easement in the future.

Mr. Wood addressed Ms. Cardinale's concerns, in that, he referred to a displayed wall map and stated that Lot No. 7 would be lowered to eliminate her privacy issues. In terms of the existing topography, Mr. Wood stated he was trying to maintain a minimal amount of grading and noted a French drain and a retaining wall would be constructed to assure proper drainage.

Jim Diggins, Engineer, explained the grading issues and assured the Council should any indication of ground water or slides, grading would be stopped and additional testing would be conducted if necessary for stabilization of the soil.

Eric Metz, 12 Hillside Road, questioned the future grading to his property that would be affected by this project. Mr. Wood responded that the grade to Mr. Metz' property, at present, slope in an upward manner approximately 12-14 feet from the backyard to the top of the hill. Mr. Wood stated that he would propose to Mr. Metz to grade the nearby 2-3 lots in a downward manner, as well as create a sink easement and add landscaping in order to minimize any impacts, in terms of privacy issues.

Mayor Freitas strongly suggested that these concerns be addressed to all the nearby residents before this item is brought back to the Planning Commission.

In terms of a community meeting, Mr. Wood stated that site sections would be done with the nearby residents in order that they could visualize existing topography, as it is currently, with an overlay of what would be proposed.

Mayor Freitas closed the Public Hearing.

RESOLUTION NO. 2004/104

On motion by Councilmember Simonsen and seconded by Councilmember Davis, the City Council unanimously approved an allocation of Residential Units for the Ashleigh Estates

Subdivision, with a change to the Resolution that the CC&R's would be placed within the deeds of all property owners and if the area was not maintained, the City would then notify the property owners that landscaping could be enforced through enforcement proceedings, for inclusion in the Tentative Map Process.

COUNCIL REGULAR AGENDA

4. ORDINANCE ADDING SECTION 4-5.1223.1 TO THE ANTIOCH MUNICIPAL CODE, DEALING WITH RECREATIONAL VEHICLE PARKING IN RESIDENTIAL ZONING DISTRICTS (Continued from 6/8/04) #701-05

City Attorney Galstan announced that in today's mail he had received an alert that the Court of Appeals had recently issued an opinion on the subject of a case of RV Parking Ordinances out of the City of Santa Barbara. In this case the Court had decided that City's can regulate oversized vehicles and can have parking restrictions that relate to RV's. But it was found that a provision in the State Vehicle Code requiring signage for parking regulations must also be adhered to. Mr. Galstan noted that in the Santa Barbara case there were approximately 33 signs located throughout the City speaking to the RV Ordinance, however, the Court found that these signs that were posted at the primary entrances to the City were not sufficient to meet the Vehicle Code requirements.

Mr. Galstan stated when the ordinance was drafted he was aware of the sign requirement and also knew it would be problematic to post signs on every block within the City. He felt he would propose to deal with this issue by the method of having the first citation contain a "Warning Citation", so that every person who would be cited would have actual notice of the provisions of the ordinance. But now due to the recent Santa Barbara case, he felt that there would be a number of cities that would be looking for some legislative correction so that all existing RV Parking Ordinances can be enforced. He felt the solution would be to go before the State Legislature to get some relief from the signage requirements, wherein the Vehicle Code could possibly be amended to provide something like a warning citation.

Mr. Galstan felt it would behoove Antioch to join with other cities to propose some type of legislation, in order that the Ordinances could be effective. Due to this recent information, Mr. Galstan recommended the City Council not take action tonight to introduce the Ordinance, pending the determination of whether this notice requirement would be problematic. The Court of Appeal decision may not necessarily be final and could be appealed to the State Supreme Court.

City Attorney Galstan proceeded to provide a summary of the proposed Ordinance Restricting the Parking of Recreation Vehicles on City Streets, dated July 29, 2004.

Councilmember Kalinowski stated that in speaking with Staff and citizens regarding the concerns that had been heard regarding RV parking, he felt that by mirroring this Ordinance to reflect other communities, an impact would be made on the overall quality of life for the

residents of Antioch.

Councilmember Davis felt it would be prudent to proceed with City Attorney Galstan's recommendation, and suggested in the interim work with the City's Code Enforcement and the Police Department.

Councilmember Simonsen stated his appreciation for the work that Councilmembers Kalinowski and Davis have done, but felt that a different approach should be taken. He recommended that the "baby-step" approach, per the staff report, be taken. He suggested that some type of notification in writing be given to all residents attached to either the water bill or whatever other means appropriate. If this step were taken, he asked the City Attorney if the Council could then proceed with the initial step of requiring residents to park their RV's in front of their own home, pending the appeal process. City Attorney Galstan replied that the Vehicle Code provides that Parking Ordinances would not take effect until signs or markings giving adequate notice have been placed. He felt that the argument that could be placed in this instance is that no signs have been posted, but a warning citation has been issued. Furthermore, City Attorney Galstan stated that the Courts were reading this Statute very carefully and that it needs to be changed through legislation.

Due to their serving on the League's Public Safety Policy Committee, Councilmember Simonsen recommended that Assistant City Manager Pappas Díaz and Councilmember Davis work with the City Attorney and Police Chief Moczulski to devise proposed legislation to attain the League's lobbyists to carry it. City Attorney Galstan interjected that the police department would still contact the responsible RV owner to move the RV away from the neighbor's home and this would be done on a complaint basis.

Don Bright, 301 West Fourth Street, representing the Rivertown Preservation Society, approved of the concept of the proposed Ordinance but felt that remedies should still be dealt with at the City level.

Councilmember Conley suggested that a warning notice be provided, and if that did not work, then the City would then give a citation to the individual owner of the RV.

Mayor Freitas felt that a warning notice should be provided to the residents as a first step, and secondly, if that did not work the City would then give a citation to the individual. City Attorney Galstan agreed. Mayor Freitas felt that if the City Council would move forward with this suggestion, then consistency between Neighborhood Improvement Services and the Police Department would be absolutely critical. City Attorney Galstan interjected that the protocol would be that the Police Department would be the agency that would enforce the Ordinance, because it would pertain to the streets and not private property.

It was the consensus of the City Council to provide a warning notice first, followed by a citation if the RV was not moved as directed by the City.

Councilmember Simonsen expressed concern to the posting of signs and the wording in the "Warning" notices.

Councilmember Simonsen also spoke to:

- § He further felt that additional wording was needed in Item "G - Penalties", per the proposed Ordinance
- § Item "D - Prohibition", wanted to ensure that the mentioned "24 hour" period would be included as part of the activity period
- § Item "E - Exception: permit", felt that a permit should be available via e-mail, web or fax. He wanted to ensure that this would be convenience and user-friendly.

PUBLIC COMMENT:

Richard Miller, 4536 Buckskin Drive, expressed concern regarding his neighbor moving his RV every three days and further expressed concerns to safety issues this caused within the neighborhood. He displayed photographs and presented slides for the City Council's viewing.

On motion by Councilmember Kalinowski and seconded by Councilmember Davis, the City Council unanimously introduced the Ordinance by title only and introduce the Ordinance by adding: " Section 4-5.1223.1. On-Street Parking of Recreational Vehicles in Residential Districts" with the request Staff prepare a "Friendly but Strong Courtesy Notice" to individuals of the City's Parking Regulations.

Councilmember Conley recommended the Subcommittee members, Councilmembers Kalinowski, Davis and Staff, devise a sub-section regarding a Trailer Ordinance.

5. ANTIOCH UNIFIED SCHOOL DISTRICT (AUSD) APPEAL OF DECISION BY THE PLANNING COMMISSION FINDING A CHARTER SCHOOL PROPOSED TO BE LOCATED ON A PORTION OF AN 8 ACRE SITE ON THE WEST SIDE OF HACIENDA WAY NORTH OF MIRA VISTA PARK INCONSISTENT WITH THE CITY'S GENERAL PLAN (GP-04-2) #202-04

Deputy Director of Community Development Carniglia provided an overview of the Staff Report dated August 2, 2004.

Councilmember Simonsen spoke to the recently approved City's General Plan and the definition of "Open Space" and noted schools were not listed in the General Plan under the definition of Open Space. Mr. Carniglia explained the General Plan was just that, and in retrospect in looking at the new plan, as noted in the Staff Report, the institutional category would have been a closer fit. But given the fact that this property was only occupying a portion of the site and given that is lower intensity than a full-on elementary school would be, it was Staff's opinion the Charter School, as proposed, would be consistent with the Open Space designation.

In speaking to the Draft Planning Commission Minutes of July 21, 2004, Councilmember Simonsen felt the main issue was to use the recently closed Bidwell Elementary in order to save money.

Sherry Gamba, Chief Business Official of the Antioch Unified School District, stated the School District was moving forward with occupying the Bidwell Elementary Site with Special Education Administration, as well as therapy for Special Education students. Further, negotiations were ongoing for a lease with a non-public school agency that would be housing special education students, as well as a Kids Club. Ms. Gamba stated the Charter School was a separate issue because its funding and needs were legally outside the perimeters of the school district, and they would have to be provided with certain types of facilities and they would receive separate monies.

Councilmember Conley expressed concern weeds collecting, due to the area being located next to a park, and questioned the future landscaping issues as well as any possible recreational activities.

Anthony Contiente, RGM & Associates, Construction Consultant to Antioch Unified School District, stated that approximately three acres of the site would be landscaped and at the present time the site was being maintained similar to the maintenance of all undeveloped school sites, whereby weed abatement is conducted. The intent would be, as funding becomes available, the site would be improved.

Councilmember Conley expressed concern to the justification to the public of the closing one school while constructing a new school. Ms. Gamba stated that Charter School law would apply, which would allow Charter Schools to pursue construction and building activities within the school district with a separate funding source from school district funding.

Mayor Freitas felt that the question before the Council was Staff's recommendation, and agreed with Staff finding the school proposed on the Hacienda site was consistent with the City's General Plan.

Councilmember Simonsen felt that due to the Planning Commission's denial, the Charter School was consistent with the General Plan, he requested that the Planning Commission and City Council meet to discuss this issue further. Mayor Freitas agreed that this would be a priority in January, 2005. Councilmember Simonsen expressed concerns to the maintenance issues of the site, in terms of trash and weed abatement, and questioned who would be responsible.

Through discussions, City Attorney Galstan clarified that the present zoning is R-1, which is inconsistent with the General Plan designation and that it should be open space. Further, that the Court has ruled that the City Council does determine what the General Plan should read. Councilmember Kalinowski believed that due to discussions within the General Plan Subcommittee, that the zoning would be brought into compliance with the General Plan

designation for each parcel, as the General Plan was approved. He felt the question before the City Council tonight was whether or not the City Council would maintain the consistency with the recently approved General Plan designation. He felt the appropriate process would be for a General Plan Amendment, in order that the designations of the General Plan match what the school district would desire for this parcel. He did not want to take this decision lightly and determine that open space would mean a school site and he did not believe this was in compliance on this specific standard, regardless of zoning, and stated that he would not support the recommendation.

City Attorney Galstan reviewed the process of a General Plan Change.

Mr. Continente explained the timeline of the project and in terms of moving forward with the Charter School he wanted assurance funding would be received and felt it would be important to move forward as quickly as possible. If the project were to be delayed 4-5 months, the project could be delayed and funding in the amount of \$4M could be jeopardized. Furthermore, no zoning issues or site use concerns were anticipated.

Mayor Freitas did not believe that open space would mean a school site, but was willing to make a variance due to the issue before the Council. He further wanted it known that he believed that as the City is proceeding on the zoning ordinance, the School District must look at every single piece of property they have within the City and absolutely confirm the zoning. He felt that this issue could have been avoided if closer coordination, with regards to the land development issues between the school district and the City if each understood each other's process. He felt the City Council should move forward with the understanding that the School District work with the City with regards to every single piece of property, easement and right-of-way, to ensure that the zoning is appropriate because it places the Planning Commission and the City Council in a difficult situation.

RESOLUTION NO. 2004/105

On motion by Councilmember Conley and seconded by Councilmember Davis, the City Council adopted the resolution approving the appeal of a Planning Commission's decision to deny a General Plan Consistency Determination, thereby finding the proposed Charter School consistent with the General Plan.

AYES: Davis, Conley and Freitas

NOES: Kalinowski, Simonsen

Councilmember Conley noted the property had been under several designations while under the ownership of the School District for approximately 20 years. He felt the City Council was not making an exception, but a correction, and the City Council needed to correct the issue, due to Staff's error. He further agreed with the Mayor all types of developers should work with Staff to ensure proper zoning.

6. ADMINISTRATIVE MEMO DEALING WITH ROADSIDE MEMORIALS #1101-01

City Attorney Galstan provided an overview of the Staff Report dated August 3, 2004.

On motion by Councilmember Simonsen and seconded by Councilmember Conley, the City Council unanimously received and filed the Administrative Memo Dealing with Roadside Memorials.

**7. REQUEST FOR RECONSIDERATION OF TENTATIVE DECISION TO DENY
CONVERSION OF BAYWOOD APARTMENTS TO CONDOMINIUMS #202-10**

City Attorney Galstan provided an overview of the Staff Reported dated August 3, 2004.

On motion by Councilmember Kalinowski and seconded by Councilmember Simonsen, the City Council voted to Reconsider the Tentative Decision to Deny Conversion of Baywood Apartments to Condominiums.

AYES: Kalinowski, Simonsen, Davis and Freitas

NOES: Conley

Eric Tao, AGI Capital, 1375 Sutter St., #300, San Francisco, spoke to the primary issue regarding the water metering of the units and felt a compromised solution would be to install individual electric water heaters in each unit. Unfortunately in speaking to various contractors, Mr. Tao stated it was deemed impractical to meter individual water because of the construction of the units.

Councilmember Kalinowski stated he supported individual water heaters and wanted to further discuss the Homeowner Association Dues (HOA), in terms of the amount. He felt the assessment for HOA dues should be 2.5% of the amount of each unit purchase price and this would assure monies would be available for maintenance repairs.

Councilmember Simonsen concurred with the reconsideration of the item and wanted to ensure all unit conversions would be constructed in the proper manner with individual ownership. He further spoke to the conversion process and wanted to ensure median price homes were available in Antioch and there would be no charge to the taxpayers of the community involved in the project. He further agreed an HOA assessment of 2.5% be implemented and requested per Condition No. 65, the last sentence be stricken. In regards to Condition No. 78, he requested the wording be eliminated and it read: "That each of the 128 individual units shall be provided with its own electric water heater."

Councilmember Conley felt that the project would not be an improvement to the City for the following reasons: a) It was a substandard project; b) It did not have separate utilities; 3) It was located between three other apartment units; 4) It would create a loss of apartments and, 5) He believed within 3-5 years it would have a majority of absentee landlords which would create further problems. Councilmember Conley further felt the project needed additional work before a conversion to condominiums were made.

Mayor Freitas asked Mr. Tao if he would be willing to have as a condition the prices of each unit in the project not exceed \$200,000.00. Mr. Tao responded an amount of \$200,000.00 was arrived through market research and those condominiums would have a greater value because it was felt as a part as the conditions the condominiums would contain new cabinetry, roofs, stairwells, paint, landscaping, as well as other amenities. He felt he could not put a condition on the project, as suggested by Mayor Freitas.

City Attorney Galstan suggested that per the Resolution for Approval, page 11, Condition No., 65, second line, striking "5%" and change it to "2.5%", per Councilmember Kalinowski's request. Also on lines 3 and 4, strike "interest bearing account". City Attorney Galstan also requested the first line of Condition No. 65 be changed to read: "That the Applicant shall enter into an agreement subject to the City Attorney's approval for the Homeowner's Association whereby 2.5% of the amount of each unit purchase price shall, at the close of escrow shall be deposited into the Homeowner's Association Capital Reserve Account. This fund to be used for repair of items in the common area and structures which the Association deems necessary." Also, per Condition No. 78, City Attorney Galstan proposed the wording be changed to read: "That the applicant shall install individual electric water heaters for each residential unit which will permit energy usage for hot water to be individually metered."

Mayor Freitas felt it was incumbent upon Staff working with the City Council and Planning Commission to revisit the issue of condominium conversions and also to come up with Ordinances, Rules and Regulations truly reflecting the current marketplace. Secondly, he expressed concern to the conflict between the City's historic practice which allowed any City Council member to bring any item to the agenda, as well as the issue of reconsideration. Mayor Freitas requested the issue be brought back for further discussions and debate amongst the City Council and there was consistency with specific rules.

Mayor Freitas stated he was not compelled to support the project, due to the information he had heard tonight and expressed concern to future safety issues within the area of the project. Mayor Freitas referred to Attachment "A", starting at the seventh "Whereas", as it read throughout the pages he felt if the project were to move forward it would be inconsistent with the City's General Plan. He felt the complex was built to be an apartment complex and was not meant to be converted to condominiums.

Councilmember Simonsen spoke to other nearby projects and felt with the various improvements throughout the City, he felt the project would be an asset to the City, as well as the surrounding area.

Councilmember Conley expressed concern to AGI Capital Group proposing the project to only make money on their part and not do anything to better the community. He felt the project should not be converted to condominiums, due to it being substandard, did not fit with the City's General Plan, and did not fit with the City's current Ordinances.

Councilmember Simonsen noted for the record he had not been solicited or been made any

promises by AGI Capital Group.

RESOLUTION NO. 2004/106

On motion by Councilmember Simonsen and seconded by Councilmember Davis, the City Council approved a Use Permit and Tentative Map to allow the Baywoods Apartment Complex Conversion to Condominiums, and for the approval of a Variance to reduce the number of required parking stalls, with the following changes:

- Item No. 65 read: "That the applicant shall enter into an agreement, subject to the City Attorney's approval, with the Homeowner's Association whereby 2.5% of the amount of each unit purchase price shall, at close of escrow, be deposited into the Homeowner's Association Capital Repairs Account. This fund to be used for repair of items in the common area and structures which the Homeowner's Association deems necessary." Further, that the last sentence be stricken.
- Item No. 78 be stricken and replaced with wording: "That the applicant shall install individual electric water heaters for each residential unit which will permit energy usage for hot water to be individually metered."

AYES: Kalinowski, Davis, Simonsen

NOES: Conley, Freitas

PUBLIC COMMENTS

A letter was distributed to the City Council from Mr. Ken Lee, resident of Antioch, for review.

COUNCIL COMMUNICATIONS

Mayor Freitas reported on the following events:

- ! A recent visit from the Sister City Delegation from Japan that visited Chichibu Park. He noted that a Kamoto was presented to the City as a gift that would be displayed at a later date.
- ! Groundbreaking ceremony for the Kaiser Permanente Hospital on Deer Valley Road to be completed on November 7, 2007
- ! Macy's grand opening that occurred on July 23, 2004
- ! El Campanil's successful opening night
- ! Mayor's Conference that was hosted at the Prewett Family Park

Councilmember Davis expressed his appreciation to City Staff for their helpfulness with the recent visit from Sister City Delegation of Japan.

Councilmember Conley suggested local insurance companies be contacted to lend their support at the upcoming Child Safety Faire and questioned if local residents could be given a discount for residents that are certified in Child Seat Installation.

Councilmember Simonsen spoke to the recent "National Night Out" event and expressed his

appreciation to all individuals and City Staff who gave their support. He further spoke to the "Mayor's and Councilmember's Executive Forum" that was held in Monterey.

Mayor Freitas requested Legislation 1A be put on the next agenda.

STAFF COMMUNICATIONS

City Manager Jake announced a Candidates Briefing would be held on September 7 at 6:30 p.m. in the City Council Chambers.

Mayor Freitas announced the north/south access for the Highway 4 Bypass groundbreaking would be held on August 14 at 9:00 a.m. behind Mimi's Café.

There being no further business, Mayor Freitas adjourned the City Council meeting at 10:50 p.m. to the next regularly scheduled meeting of September 14, 2004.

Respectfully Submitted,

Debra Lawson
Minutes Clerk

Approved:

DONALD P. FREITAS, Mayor

Attest:

L. JOLENE MARTIN, City Clerk