

ANTIOCH CITY COUNCIL

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

**July 26, 2005
Council Chambers**

5:30 P.M. - CLOSED SESSION

- 1) PUBLIC EMPLOYEE PERFORMANCE EVALUATION.** Title: City Manager. This closed session is authorized by Government Code §54957.
- 2. LITIGATION - Kleinfelder v. Antioch.** This closed session is authorized by Government Code §54956.9.
- 3. 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 7:14 P.M. He reported the City Council had been in Closed Session and there was no reportable action. 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.

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Lonnie Karste, representing the Antioch Education Foundation, announced a Golf Tournament would be held on September 23, 2005 at the Lone Tree Golf Course beginning at 7:00 A.M. He encouraged the City Council to participate and provided a contact number for anyone wishing to participate, volunteer or sponsor the event.

Julie Haas-Wajdowicz announced an E-Waste Recycling event was scheduled for July 31 and August 1, 2005 at the Antioch Fairgrounds. She provided a contact number and website for anyone wishing to receive additional information.

Mayor Freitas recognized Ms. Haas-Wajdowicz as the environmental steward for the City of Antioch, and thanked her for a job well done.

ANNOUNCEMENTS OF BOARD AND COMMISSION OPENINGS

City Clerk Martin announced the following Board and Commission openings for the City of Antioch:

- § One unexpired term on the Antioch Crime Prevention Commission
- § One unexpired term and two four-year terms on the Planning Commission

The filing deadline for applications for the Antioch Crime Prevention Commission was August 12, 2005 at 5:00 P.M. and the deadline for applications for the Planning Commission was September 9, 2005 at 5:00 P.M. Contact information was given for those interested in applying.

PUBLIC COMMENTS

Emil Stein, Antioch resident, questioned when the Gadell Construction Company would be capping, painting and removing the concertina wire from the soundwall at the Antioch Auto Center. He reported a forklift from the dealership had damaged the street near Tulip Drive; he suggested the City issue fines to the dealership for not abiding by their conditions of approval.

Ken Lee, Antioch resident, questioned when the 60 CNEL maximum levels would be enforced at the Antioch Auto Center and noted the “no right hand turn” sign was missing from the driveway on West 18th Street. He reported a code enforcement violation regarding illegal banners was occurring at Lone Tree Way and Travino Street. He suggested the City post Planning Commission Public Hearing notices on the sites of proposed development.

Mayor Freitas thanked Councilmember Kalinowski for substituting for him while he was on vacation.

1. COUNCIL CONSENT CALENDAR

- A. APPROVAL OF COUNCIL MINUTES FOR June 28, 2005 and July 12, 2005**
.....#301-02 - Continued
- B. APPROVAL OF COUNCIL WARRANTS.....#401-02**
- C. APPROVAL OF TREASURER’S REPORT FOR JUNE 2005#401-02**
- D. REJECTION OF CLAIMS#704-07**
 - 1. Michele Myers, #05/06-1577 (lost income)**
- E. LEGISLATION AND ADVOCACY.....#701-04**
 - 1. San Luis Drain Project** *Approved with changes*
- F. RESOLUTION NO. 2005/76a ACCEPTING A PROPOSAL FROM BROWN AND CALDWELL FOR UPDATING THE CITY’S URBAN WATER MANAGEMENT PLAN (PW 340-7).....#1140**

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

Item E1 - Following discussion the City Council directed the letter (attachment A) be revised to eliminate “without exhausting all of our available remedies” from the last sentence of paragraph #3.

On motion by Councilmember Conley, seconded by Councilmember Simonsen the City Council unanimously approved E1 with the following changes to the letter under the City Attorney's signature (attachment A), delete "without exhausting all of our available remedies" from the last sentence of paragraph #3.

Item F - Mayor Freitas suggested in the future, the list be broadened to include more agencies in Contra Costa and the greater Bay Area.

On motion by Councilmember Conley, seconded by Councilmember Simonsen the City Council unanimously approved Item F.

PUBLIC HEARINGS

2. MARK MARCOTTE/PARK LAKE CONDOMINIUMS REQUESTS APPROVAL OF A USE PERMIT, A VARIANCE FROM MINIMUM SETBACK REQUIREMENTS, A TENTATIVE MAP AND A REZONE TO DEVELOP A 60 UNIT CONDOMINIUM COMPLEX ON APPROXIMATELY 3.2 ACRES LOCATED AT THE SOUTHEAST CORNER OF JAMES DONLON BOULEVARD AND TABORA DRIVE (APN 072-011-062) FILES: UP-04-19, Z-04-03, V-04-14#202-10

Associate Planner Albro presented the staff report dated July 26, 2005 recommending the City Council take the following actions: A) Introduce the ordinance by title only; B) Introduce the ordinance rezoning approximately 4.06 acres, making up the Park Lake Condominium project site to High Density Residential District (R-20), and; C) Adopt the resolution approving the Tentative Map, Use Permit and Variance and adopting of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Park Lake Condominium project.

Mayor Freitas stated project specific conditions #s79 and 83 were duplicate conditions and suggested deleting #83 and renumbering #84 to 83. He noted it was his opinion the project should come under C3 provisions.

Mayor Freitas opened the public hearing.

Garry Willoughby, representing Mark Marcotte, stated he was available to answer Council's questions. He further noted they were in agreement to the C3 provisions and the conditions of approval including #78-84 as presented this evening.

In response to Councilmember Conley, Mr. Willoughby offered to condition the project to be available exclusively to Antioch/East County residents for a pre-determined amount of time.

Mayor Freitas closed the public hearing.

RESOLUTION NO. 2005/77a

On motion by Councilmember Conley, seconded by Councilmember Simonsen the City Council unanimously: A) Introduced the ordinance by title only; B) Introduced the ordinance rezoning approximately 4.06 acres, making up the Park Lake Condominium project site to High Density Residential District (R-20); C) Adopted the resolution approving the Tentative Map, Use Permit and Variance and adopting of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Park Lake Condominium project. With the addition of project specific conditions #78-82 and 84 as presented, deleting project specific condition #83, renumbering condition #84 as 83 and the addition of #84 and 85 to read:

#84. That there be a first opportunity within the first 30 days of sales for Antioch and East County residents to have preference.

#85. The project will treat storm water run off and a storm water control plan shall be submitted with the application for building permit.

3. REGIONAL TRANSPORTATION DEVELOPMENT IMPACT MITIGATION FEE INCREASE.....1102-03

A) ADOPTION OF ORDINANCE ESTABLISHING THE REGIONAL TRANSPORTATION DEVELOPMENT IMPACT MITIGATION FEE AND ADOPTION OF INTERIM ORDINANCE MAKING FEE EFFECTIVE IMMEDIATELY

Dale Dennis reviewed the staff report dated July 18, 2005 recommending the City Council: a) Introduce the ordinance by title only; b) Introduce the ordinance establishing the Regional Transportation Development Impact Mitigation Fee; c) Adopt the interim urgency ordinance making the fee effective immediately (4/5 vote required); and d) Direct staff to prepare another interim urgency ordinance for the August 9, 2005 City Council meeting.

Julie Morgan, Fehr & Peers, gave a brief overview of the updated regional fee program.

Dale Dennis, Program Manager for East Contra Costa Regional Fee and Financing Authority (ECCRFFA), stated they were requesting agency members to adopt the program update and higher fees.

In response to Mayor Freitas, Mr. Dennis stated based on the current strategic plan, the priority was Highway 4, State Route 4 Bypass and Buchanan Road and noted once the program update was adopted, the ECCRFFA would prepare an additional strategic plan to prioritize more of the projects.

City Attorney Galstan reported there had been letters challenging the urgency ordinance, however, staff felt the faster those funds were collected, and the improvements were made, the faster the benefit to the public health, safety and welfare. Therefore the findings were made and found to be consistent with tentative maps and development agreements.

He noted he had passed out a corrected cover page for the ordinance, correcting typographical errors and if the City Council introduced the ordinance it should include the corrected cover page.

Mayor Freitas opened the public hearing.

Bob Glover, representing the Home Builders Association (HBA), reported they had submitted a letter dated June 16, 2005, which was included in the staff report. He requested the City not adopt an urgency ordinance, as it was the opinion of the Home Builders Association it was not legally warranted. He stated they objected to the suggestion the new regional fees be imposed against previously approved projects upon which the City had conferred vested rights by means of development agreements or vesting tentative maps.

Mayor Freitas closed the public hearing.

Councilmember Simonsen urged the City Council to not take action on the item and hold it over to August 9, 2005 to insure the City of Pittsburg would be supporting the ECCRFFA Fee Schedule. He expressed concern regarding the financial impact of the fee on potential new homeowners and disagreed there should be a lower fee for multiple family residential units.

City Attorney Galstan stated, should the City not support the urgency ordinance, the fee would be valid 60 days from the adoption of the ordinance on August 9, 2005.

Councilmember Kalinowski stated development should mitigate impacts on local roads and therefore he supported the urgency ordinance.

Councilmember Davis stated he did not see the case for the urgency ordinance and supported continuing the item to August 9, 2005.

Councilmember Conley stated he supported the urgency ordinance, noting the public demands each jurisdiction do the utmost to correct the transportation problems.

Mayor Freitas stated the Council had received a letter dated July 26, 2005 from Sheppard Mullin regarding their comments and objections to proposed interim ordinance.

Councilmember Simonsen stated he did not see a case for an urgency ordinance.

Mayor Freitas stated the State of California abandoned Highway 4 and due to that, the fees were necessary to mitigate the impact of growth on local roads.

On motion by Councilmember Kalinowski, seconded by Councilmember Conley the City Council unanimously: a) Introduced, by title only with the replacement page #1 to correct typographical errors presented this evening; and, b) Introduced the ordinance establishing the Regional Transportation Development Impact Mitigation Fee.

A motion was made by Councilmember Kalinowski, seconded by Councilmember Conley to adopt the interim urgency ordinance making the fee effective immediately. The motion failed to receive the required 4/5th vote with Councilmembers Simonsen and Davis voting against.

On motion by Councilmember Conley, seconded by Councilmember Simonsen the City Council unanimously directed staff to prepare another interim urgency ordinance for the August 9, 2005 City Council meeting.

B) RESOLUTION APPROVING A SECOND AMENDMENT TO THE EAST CONTRA COSTA REGIONAL FEE AND FINANCING AUTHORITY JOINT EXERCISE OF POWERS AGREEMENT AND RESOLUTION APPROVING THE SUPPLEMENTAL AGREEMENT TERMINATING THE EAST COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY JOINT EXERCISE OF POWERS AGREEMENT

In response to Councilmember Simonsen, Mayor Freitas clarified should the City of Pittsburg not approve the Regional Transportation Development Impact Mitigation Fee or there was a different approval, the item would return to each City Council. He added the purpose of deleting one agency and re-establishing the other was to ensure the fee would be similar to all governing jurisdictions.

Dale Dennis stated the amendment for ECTIA indicated it would only become effective if all member agencies adopted the new fees.

RESOLUTION NO. 2005/78
RESOLUTION NO. 2005/79

On motion by Councilmember Conley, seconded by Councilmember Kalinowski, the City Council unanimously: a) Approved the resolution authorizing the Mayor to execute the Second Amendment to the Joint Exercise of Powers Agreement for the East Contra Costa Regional Fee and Financing Authority, and; b) Approved the resolution authorizing the Mayor to execute the Supplemental Agreement Terminating the ECTIA Joint Exercise of Powers Agreement substantially in the form attached

Mayor Freitas declared a recess at 8:29 P.M. The meeting reconvened at 8:42 P.M. with all Councilmembers present.

Mayor Freitas stated a request to speak, which should have been heard under Public Comments was overlooked, therefore he would deviate from the agenda at this time to hear the item.

PUBLIC COMMENT

Bruce Smargiasso, representing Park Place Asset Management, stated he was the landlord of 300 units representing 800-1000 residents of the city of Antioch. He requested the help of the City Council in addressing the escalating crime in the neighborhood.

4. THE CITY OF ANTIOCH REQUESTS APPROVAL TO AMEND THE EAST LONE TREE SPECIFIC PLAN TO BRING IT INTO COMPLIANCE WITH THE NEWLY ADOPTED GENERAL PLAN. THIS INCLUDES REDESIGNATING SOME PROPERTIES ADJACENT TO THE LAUREL ROAD INTERCHANGE TO COMPLY WITH THE GENERAL PLAN AND PROPERTIES ALONG THE EASTERN PORTION OF THE SPECIFIC PLAN. THE SPECIFIC PLAN BOUNDARIES ARE GENERALLY LONE TREE WAY TO THE SOUTH, EMPIRE ROAD TO THE EAST, SOUTHERN PACIFIC RAILROAD TRACK TO THE NORTHEAST, AND ADJACENT RESIDENTIAL DEVELOPMENT TO THE WEST (SP-05-01).....#202-03

Community Development Deputy Director Carniglia presented the staff report dated July 26, 2005 recommending the City Council adopt the resolution.

Mayor Freitas requested the area north of Lindsay Basin designated at "E" be redesignated at CR/E. He expressed concern the realignment of Country Hills Road would create several small undevelopable properties.

Community Development Deputy Director Carniglia stated layouts indicated the land could be developed for commercial uses and the southern area developed for residential use.

Mayor Freitas directed staff to bring any proposals for the property to the south of the Laurel Road/Country Hills Road intersection before the City Council for approval.

Mayor Freitas opened and closed the public hearing with no speakers requesting to speak.

RESOLUTION NO. 2005/80

On motion by Councilmember Kalinowski, seconded by Councilmember Conley the City Council unanimously adopted the resolution with the redesignation of the property to the north of Lindsay Basin from "E" to "CR/E".

5. THE CITY OF ANTIOCH REQUESTS APPROVAL OF CHANGES TO THE ZONING ORDINANCE TO BRING IT INTO COMPLIANCE WITH THE GENERAL PLAN ADOPTED IN 2003. IN ADDITION, THE CORRESPONDING ZONING MAP WILL BE UPDATED TO BE CONSISTENT WITH THE GENERAL PLAN MAP PURSUANT TO STATE LAW (Z-04-02).....#202-05

Community Development Deputy Director Carniglia presented the staff report dated July 26, 2005 recommending the City Council hold the public hearing, provide comments to staff on the material contained in this staff report, and continue the item to a date certain.

Lloyd Zola gave a brief overview of the Zoning Update process and the changes in the updated zoning map.

Mayor Freitas opened the public hearing.

Carlene Mitchell, Antioch resident, questioned how mixed-use residential/commercial as it relates to the residential would be defined, specifically pertaining to low, medium or high density residential.

Mayor Freitas directed staff to contact Ms. Mitchell with the information.

Mayor Freitas closed the public hearing.

Mayor Freitas and City Attorney Galstan discussed reopening the Public Hearing, direction was unclear.

On motion by Councilmember Simonsen, seconded by Councilmember Davis the City Council unanimously continued Z-04-02 to September 27, 2005.

COUNCIL STUDY SESSION

6. STUDY SESSION PRESENTATION OF NORTHEAST ANTIOCH ANNEXATION FEASIBILITY STUDY: STRATEGIC PLAN FOR PHASED ANNEXATION

.....#814-03

Dick Loewke, Land Planning Consultant, presented the staff report dated July 20, 2005 recommending the City Council direct staff as to Council's desired course of action.

In response to Mayor Freitas, Mr. Loewke clarified in order to consider annexation of any portion of the study area, the City would have to embrace annexation of areas 1, 2a and 2b. He stated if the residents of area 2a and 2b decline annexation by protest, by default the City would be left with the annexation of area 1.

John Mitosinka, Antioch resident, stated he was co-owner of a property at the north end of St. Claire and speaking on behalf of the residents in the area, reiterated the resident in his area did not support annexation.

Mayor Freitas clarified the City's intent was to consider annexation of area #1 and due to the law the City Council may move forward with annexation for all areas, knowing the property owners in areas 2a and 2b would be voting against it.

Nancy Monfort, Antioch resident, requested clarification regarding separate requests for annexation.

Mayor Freitas clarified if the residents wished to come to the City Council with a separate request, they could not infringe within 60 days of the Council's action.

Fred Confetti requested assurance from the City Council they would be informed of how the City Council would proceed with annexation.

Mayor Freitas stated if the City Council moved forward, the property owners would be involved in the process.

Councilmember Kalinowski stated he was opposed to moving forward at this time due to the fact he had concerns regarding the cost of services until build out occurred; he did not see the urgency to dedicate staff and council time as well as City resources to a challenged area without a formal application for development. He noted he felt the focus should be on the Rivertown/Downtown area.

Mayor Freitas stated there were funds available for the revitalization of those Brownfield areas.

Councilmember Conley stated his focus was control of Area 1 and he felt the opportunity to control the riverfront property was now while the value was at its lowest and would provide a better tax benefit. He agreed the City's priority should be the Rivertown Area although it would benefit the City to take advantage of annexation of Area 1 now.

Councilmember Simonsen agreed the City should proceed with annexation for control over future development, which could occur in Area 1.

Councilmember Davis supported moving forward with annexation for Area 1 noting with the increased interest in the Rivertown area there may also be increased interest in Area 1.

Mayor Freitas stated Council consensus was to move forward with the annexation and reiterated the intent was not to support annexation of Areas 2a or 2b.

Mayor Freitas declared a recess at 10:12 P.M. The meeting reconvened at 10:28 P.M. with all Councilmembers present.

COUNCIL REGULAR AGENDA

7. REVISED CITY TRAVEL POLICY #401-01

City Manager Jakel presented the staff report dated July 26, 2005 recommending the City Council review and comment on the proposed draft travel policy, move to direct staff to take steps necessary to begin implementation of the revised policy for Councilmembers, City Clerk, City Treasurer, City Attorney and City Manager, and authorize the City Manager to meet and confer with employee groups.

Mayor Freitas voiced his support of the employee groups providing input, however he felt it was the purview of management to establish travel policy, therefore he did not agree it was a meet and confer item. He expressed concern inappropriate use of the City's credit card

would only result in suspension of the card. He requested clarification of the last paragraph of A-4 indicating the City's insurance does not cover rental cars.

Councilmember Conley stated in the future criteria for travel needed to be determined specifically as it related to the League of California Cities.

Councilmember Kalinowski stated he felt mileage and bridge toll should be covered in the Council's monthly car allowance and internet usage should be covered under the Council's monthly stipend. He noted if per diem was used there should be no additional costs charged back to the City.

Councilmember Simonsen agreed stronger language regarding misuse of the City's credit card was appropriate. He supported per diem and reducing the amount if meals were included in conferences. He felt there should be one policy for all City employees including the Police Department.

Councilmember Davis stated he was in support of the City's travel and expense policy and felt it should be standard for all city employees.

Mayor Freitas stated the policy was written for employees and it should specifically identify Elected Officials as well as employee consequences and procedures.

City Treasurer Conley recommended reconciling receipts with per diem with any excess money coming back to the city.

Mayor Freitas stated costs incurred without receipts are accepted as an exception with sufficient documentation.

Following discussion the City Council accepted the Travel Policy with the following direction to staff:

4. Travel expense policy shall be standard for all city employees
5. Differentiation between the Elected Officials and City Employees
6. Method for travel reimbursement by receipt allowing advancement payments based on the IRS guidelines for per diem.
7. Change the credit card misuse provisions to include up to an including termination of employment.
8. Resolve the rental car insurance issue
9. Clarify "meet and confer" is "meet and discuss" the policy with employee groups

The City Council requested the item return to the City Council under the Council Consent Calendar for approval.

PUBLIC COMMENTS - None

STAFF COMMUNICATIONS

City Manager Jakel reminded the public the August 9, 2005 City Council meeting would be the last meeting until September and the Mayor's Conference was August 4, 2005, which would be hosted by the City of Pittsburg.

COUNCIL COMMUNICATIONS

Councilmember Davis reported he had returned from Chichibu, Japan yesterday and thanked the City Council for their support of the street naming for Mr. Sakurai. He stated the presentation of the proclamation and Americana quilt was appreciated and he announced the Mayor of Chichibu would be visiting Antioch next year.

Councilmember Simonsen wished his parents a Happy 60th Wedding Anniversary.

Mayor Freitas announced the passing of Antioch residents Clara Gazia and Mno Grant and noted they would be missed as outstanding citizens of the City.

ADJOURNMENT

With no further business, Mayor Freitas adjourned the meeting in honor of Clara Gazia and Mno Grant at 11:19 P.M. to the next regular Council meeting on August 9, 2005.

Respectfully Submitted

L. JOLENE MARTIN, CMC

Approved

DONALD P. FREITAS, Mayor

Attest

L. JOLENE MARTIN, CMC