

ANTIOCH CITY COUNCIL

Regular Meeting
7:00 P.M.

December 11, 2007
Council Chambers

6:15 P.M. - CLOSED SESSION

1. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION** – This Closed Session is authorized by California Government Code §54956.9(a): Whiteside Construction Corporation v. J.K. Merz Construction, Inc., Antioch Public Golf Corporation and the City of Antioch, et al.; Davidson Plastering, Inc. v. J.K. Merz Construction, Inc., Contra Costa Superior Court, Case No. Consolidated C06-00730, City of Antioch, Travelers Casualty and Surety Company of America, et al.; J.K. Merz Construction, Inc., v. First Republic Bank, et al., San Francisco Superior Court, Case No. CGC06-454761.

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

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

PLEDGE OF ALLEGIANCE

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

Mayor Freitas announced staff had requested agenda item #3 *Preliminary Development Plan for the Bank of Agriculture and Commerce and Auto Spa* be removed from the agenda, there being no objection, item #3 was removed.

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Devi Lanphere, Antioch Chamber of Commerce, announced the Chamber's Inaugural Gala would be held on January 18, 2007 at 7:00 P.M. at the Lone Tree Golf Course Event Center. Contact information was given for anyone wishing to receive additional information.

Mayor Freitas congratulated the Woman's Club for hosting a very successful Christmas Home Tour and announced the City of Oakley had the presentation of the new Oakley City Hall on December 8, 2007. He encouraged everyone to attend the Mayor's Conference the following week, to be hosted by the City of Oakley in their new facility.

PUBLIC COMMENTS

Douglas Tokes, Antioch resident, thanked the City for landscaping the medians on East 18th at Hillcrest. He expressed concern with the lack of an accurate description of assailants being supplied to the newspaper from the Antioch Police Department, noting it was not possible for the community to protect themselves.

Emil Stein, Antioch resident, discussed questionable language being used on public television and expressed concern similar language was not accepted in Council Chambers.

Ken Lee, Antioch resident, made comments on the history of Chinese immigrants at the Hickmont Canary in Antioch.

Scott Gardner and Ben Deniston, representing the *LaRouche Political Action Committee*, discussed the financial crisis occurring due to sub prime mortgages and requested the City Council pass a resolution endorsing the Homeowner and Bank Protection Act.

Trisha Meikle, Antioch resident, urged the community to attend City Council meetings to voice their opinions, adding the next City Council meeting would be held on December 18, 2007.

COUNCIL RESPONSE TO PUBLIC COMMENTS - None

1. COUNCIL CONSENT CALENDAR

A. APPROVAL OF COUNCIL MINUTES FOR NOVEMBER 13, 2007 (#301-02)

B. APPROVAL OF COUNCIL WARRANTS (#401-01)

C. REJECTION OF CLAIMS (#704-07)

1. Frank Lester #07/08-1791
2. Ishma Jackson #07/08-1794

D. LEGISLATION AND ADVOCACY (#701-04)

E. ORDINANCE NO. 2006 C-S REZONING APN 068-011-036, COMMONLY KNOWN AS 1821 "A" STREET, FROM MEDIUM LOW DENSITY RESIDENTIAL (R-6) TO NEIGHBORHOOD/COMMUNITY COMMERCIAL (C-2) TO BRING IT INTO COMPLIANCE WITH THE GENERAL PLAN (Z-07-04) (#202-05) (*Introduced 11/27/07*)

F. ORDINANCE NO. 2007 C-S MARKSTEIN DISTRIBUTION CENTER – ARCO NATIONAL CONSTRUCTION COMPANY REQUESTS A FINAL DEVELOPMENT PLAN (PD), PD REZONE, AND USE PERMIT FOR AN OFFICE/WAREHOUSE DISTRIBUTION CENTER LOCATED ON UNDEVELOPED LAND WEST OF HIGHWAY 160 AT THE NORTHERN TERMINUS OF DRIVE-IN WAY (APN 051-052-110) (PD-07-02) (#202-03) (*Introduced 11/27/07*)

G. RESOLUTION NO. 2007/89 ESTABLISHING CLASS SPECIFICATION AND SALARY FOR THE POSITION OF ANIMAL SERVICES SUPERVISOR TO REPLACE THE CURRENT REGISTERED VETERINARY TECHNICIAN/SUPERVISOR CLASSIFICATION (#502-02)

H. APPROVAL OF CONSULTANT SERVICE AGREEMENT TO DESIGN A NEW EMERGENCY GENERATOR FACILITY AND REPLACE THE NUMBER 1 RAW WATER PUMP AT THE CITY'S CONTRA COSTA CANAL RAW WATER PUMP STATION (#1202-05)

I. AMENDMENT TO AN EXISTING LOAN AGREEMENT AND EXECUTE A SECOND LOAN AGREEMENT BY AND BETWEEN THE CITY OF ANTIOCH AND THE ANTIOCH PUBLIC GOLF CORPORATION, INC (#1402-01)

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

Item E – In response to Mayor Freitas, Director of Community Development Brandt clarified the property in question was the former check cashing business.

On motion by Councilmember Moore, seconded by Councilmember Davis, the City Council unanimously approved item E.

Item G – Karen Kops, President of Homeless Animal Rescue Program (HARP), spoke in support of the approval of the Animal Services Supervisor position and urged the City to fill the position as soon as possible.

On motion by Councilmember Kalinowski, seconded by Councilmember Simonsen, the City Council unanimously approved item G.

Mayor Freitas reiterated item #3 on the agenda would be delayed to a future date.

PUBLIC HEARINGS

2. ANTIOCH SURGICAL CENTER – MS WALKER & ASSOCIATES REQUESTS APPROVAL OF A NEW PLANNED DEVELOPMENT, FINAL DEVELOPMENT PLAN, AND USE PERMIT APPLICATIONS TO BUILD AN OUTPATIENT SURGERY CENTER LOCATED AT 3500 HILLCREST AVENUE, NEAR THE INTERSECTION OF HILLCREST AVENUE AND WILDFLOWER ROAD (APN 052-370-010) FILE: (PD-04-09; UP-04-11) (#202-03)

Senior Planner Oshinsky presented the staff report dated December 4, 2007 recommending the City Council take the following action: A) introduce the ordinance by title only; B) introduce the ordinance rezoning approximately 1.48 acres making up the project site to the Planned Development District (PD); and C) adopt the resolution approving a Final Development Plan and Use Permit.

Mayor Freitas opened the Public Hearing.

Kirk Musacchio, representing Muscachio, Mortunami, & Lucia C.C. and MS Walker, thanked the City Council for the opportunity to present the project. He thanked staff and the Design Review Board for their input. Speaking to project specific conditions #43 and #49, he clarified Muscachio, Mortunami, & Lucia C.C. and MS Walker had entered into a reciprocal access and maintenance agreement, dated April 6, 1990.

City Attorney Nerland stated the existing document provided met the City's requirements, staff would not be asking for a new document to be drafted.

Mr. Musacchio stated they were in agreement to conditions #43 and 49, in that, they provide consistency with conditions on surrounding properties.

Following discussion regarding project specific condition #66, Mayor Freitas conceded to the relocation of the 6 foot chain link fence, provided the applicant received approval from CCWD, the City of Antioch and possibly the Bureau of Reclamation,.

Mayor Freitas closed the Public Hearing.

RESOLUTION NO. 2007/90

On motion by Councilmember Simonsen, seconded by Councilmember Davis, the City Council unanimously approved: A) introduce the ordinance by title only; B) introduce the ordinance rezoning approximately 1.48 acres making up the project site to the Planned Development District (PD); and C) adopt the resolution approving a Final Development Plan and Use Permit.

3. BANK OF AGRICULTURE AND COMMERCE AND AUTO SPA PRELIMINARY DEVELOPMENT PLAN / RICHARD MILLER REQUESTS A REVIEW OF A PRELIMINARY DEVELOPMENT PLAN, FOR THE DEVELOPMENT OF A WALK IN AND DRIVE UP BANK AS WELL AS A CAR WASH ON APPROXIMATELY 2.33 ACRES LOCATED AT THE INTERSECTION OF LONE TREE WAY AND COUNTRY HILLS DRIVE (APN 055-071-080) (PDP-07-04) (#202-03)

At the request of staff, the item was postponed to a date uncertain.

COUNCIL REGULAR AGENDA

4. PREWETT PARK PROJECT – ACTION BY THE MELLO ROOS BOARD (#1402-03)

Project Manager Karste presented the staff report dated December 4, 2007 recommending the City Council receive as an informational item or provide direction regarding funding for the project.

Antioch resident, James Morris Sr., spoke in support of Terry Ramus being appointed to the Mello Roos Board. He encouraged the City and Mello Roos Board to be fiscally prudent when spending the public's money.

Perry Meikle, Antioch resident, requested the City Council take under consideration that \$4M of the \$26M in funding from the Mello Roos Board had been expended for the plans to build out Prewett Park; however, the funding mechanism did not extend assessments beyond 2017.

Trisha Meikle, Antioch resident, questioned if the \$12M excess special tax revenue and state reimbursements could be used to pay down Mello Roos sooner than 2017. She requested a history of those revenues.

Mayor Freitas explained the issues in question were under the jurisdiction of the Mello Roos Board, and urged those asking the questions to attend a meeting of the Mello Roos Board, pose these questions, as only the Mello Roos Board had the answers.

Ms. Meikle stated she felt funds from Mello Roos for the build-out of Prewett Park was not prudent spending of the public's money.

Councilmember Moore stated he had requested the item be brought back to the City Council to give staff the opportunity to report back and noted Mello Roos Board members expressed interest in receiving more details as to how the additional \$12M of excess revenue had been acquired, and what could be the ramifications to taxpayers. He discussed the positive impact the project would have on the local economy and community.

Councilmember Simonsen voiced his approval of the decisions made by the Mello Roos Board and discussed the importance of seeking alternative funding sources for the build out of the project.

In response to Mayor Freitas, Finance Director Merchant clarified \$12M in excess revenue was explained to the Mello Roos Board at the May 14, 2007 meeting and brought to the City Council on August 6, 2007. She also noted past State reimbursements had gone toward refunding and construction funds for school sites. She clarified should a property located in the Mello Roos District go into foreclosure, Mello Roos tax is co-equal to the property tax, and therefore it was not presented as a default to the City of Antioch.

Mayor Freitas stated the City Council had responded to the Mello Roos taxpayers, who did not want an extension of their payments beyond 2017 by unanimously supporting the request for \$38M in available funds to build the library, community center and police substation. He stated the Mello Roos Board may want to revisit the issue after receiving more information on foreclosures, excess and extra revenues as well as the purpose of the creation of the Mello Roos District. Based on the available funding, he noted the Council would need to decide which facility to move forward. If the available funding was \$26M he would support the City moving forward to build the police substation and community center, while concurrently moving forward to pursue alternative funding to build the library.

Councilmember Simonsen requested Finance Director Merchant provide the Council with information detailing when the Mello Roos Board or School District applied for the State reimbursement, including when the \$7.2M was received.

Councilmember Simonsen discussed the plans for the Y.M.C.A. to build a facility at Prewett Park.

Councilmember Moore requested those on the Mello Roos Board reconsider the request for the \$12M in excess revenue.

PUBLIC COMMENTS - None

STAFF COMMUNICATIONS

City Manager Jakel announced the Michael Esposito would be visiting on December 17, 2007 as part of a tour of Northern California and he would be meeting with him with the City Managers of Oakley and Brentwood to discuss forming a partnership as the City moves forward for the reauthorization of highway funding.

City Attorney Nerland reported she would be bringing an ordinance for City Council consideration clearly defining the duties of Building Appeals Board from the Board of Administrative Appeals, to assist in the City's recruiting efforts.

COUNCIL COMMUNICATIONS - None

ADJOURNMENT

With no further business, Mayor Freitas adjourned the meeting at 8:35 P.M. to the next regular Council meeting on December 18, 2007.

Respectfully submitted:

L. JOLENE MARTIN, CMC, City Clerk