

**ANTIOCH CITY COUNCIL  
ANTIOCH DEVELOPMENT AGENCY**

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

**July 13, 2004  
Council Chambers**

**6:00 P.M. - CLOSED SESSION**

- 1) CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION. West Coast Home Builders, Significant exposure to litigation pursuant to subdivision (b) of Government Code §54956.9 (One case).
- 2) PUBLIC EMPLOYEE PERFORMANCE EVALUATION. Evaluation for City Manager. This Closed Session is authorized by Government Code §54957.
- 3) CONFERENCE WITH LEGAL COUNSEL; EXISTING LITIGATION. City of Antioch vs. E.I. DuPont, et al., Contra Costa Superior Court #C99-02197. This Closed Session is authorized by Government Code §54956.9.

Mayor Freitas called the meeting to order at 7:07 P.M., and Deputy City Clerk Chalk called the roll.

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

City Attorney Galstan reported there was a vote in closed session to settle pending litigation. The settlement was conditioned upon approval of other parties, therefore they were not reporting any details at the time.

**PLEDGE OF ALLEGIANCE**

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

**ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS - None**

**PUBLIC COMMENTS**

Lynette Cardinale, Antioch resident, expressed concern regarding unsafe driving and criminal activity that had been occurring in her neighborhood. She noted she felt tax dollars were insufficiently funded and utilized for police protection in the City. She urged the City Council to preserve and insure a healthy quality family life for all residents.

Mayor Freitas directed City Manager Jakel to meet with Ms. Cardinale and the Police Department, Code Enforcement and Public Works and come back to the City Council August 10, 2004 with a report.

Hans Ho, Antioch resident, requested the City Council be more receptive to citizen concerns pertaining to future developments in Antioch and thanked them for agendaizing the suspension of processing the FUA#1 Specific Plan.

Dee Vieira, Antioch resident, expressed concern regarding the use of the Dow Wetlands as mitigation for the loss of burrowing owl habitat for the Reynolds and Brown project located on Bluerock Drive. She reported the Department of Fish and Game would be providing information to the City regarding acceptable mitigation measures for the burrowing owls.

**1. COUNCIL CONSENT CALENDAR**

- A. APPROVAL OF COUNCIL MINUTES FOR JUNE 1 AND 8, 2004 #301-02**
- B. APPROVAL OF COUNCIL WARRANTS #401-02**
- C. APPROVAL OF TREASURER'S REPORT - MAY 2004 #401-02**
- D. REJECTION OF CLAIMS #704-07**
  - 1. Mary Edna Frank, #03/04-1481
  - 2. Laurel Bennett, #04/05-1488
- E. LEGISLATION AND ADVOCACY #701-04**
- F. RESOLUTION NO. 2004/78 ESTABLISHING CLASS SPECIFICATION AND SALARY FOR THE POSITION OF REGISTERED VETERINARY TECHNICIAN/SUPERVISOR AND APPROVING RECLASSIFICATION OF REGISTERED VETERINARY TECHNICIAN #502-02**
- G. RESOLUTION NO. 2004/79 AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR ENGINEERING SERVICES WITH BLACK AND VEATCH CORPORATION FOR DEVELOPMENT OF PLANS AND SPECIFICATIONS FOR THE FUTURE PLANT B EXPANSION FACILITIES AT THE WATER TREATMENT PLANT (PW 551-4) #1202-01**
- H. RESOLUTION NO. 2004/80 ACCEPTING WORK AND AUTHORIZING CITY ENGINEER TO FILE A NOTICE OF COMPLETION FOR UPGRADES TO THE WATER TREATMENT PLANT "B" PROJECT (PW 551-3) #1202-01**
- I. RESOLUTION NO. 2004/81 ACCEPTING WORK AND AUTHORIZING CITY ENGINEER TO FILE A NOTICE OF COMPLETION FOR THE ANNUAL SIDEWALK, CURB, AND GUTTER REPAIR AT VARIOUS LOCATIONS IN THE CITY OF ANTIOCH (PW 507-9A) #1102-04**
- J. RESOLUTION NO. 2004/82 ACCEPTING WORK AND AUTHORIZING CITY ENGINEER TO FILE A NOTICE OF COMPLETION FOR THE WATER TREATMENT PLANT UPGRADES (PW 246-22A) #1202-01**
- K. RESOLUTION NO. 2004/83 ACCEPTING WORK AND AUTHORIZING CITY ENGINEER TO FILE A NOTICE OF COMPLETION FOR THE WIDENING OF SOMERSVILLE ROAD SOUTH OF BUCHANAN ROAD (PW 141-8) #1102-04**

- L. **RESOLUTION NO. 2004/84 ACCEPTING WORK AND AUTHORIZING CITY ENGINEER TO FILE A NOTICE OF COMPLETION FOR THE SOMERSVILLE ROAD PAVEMENT REHABILITATION (PW 392-18)** **#1102-04**
- M. **APPOINTMENT TO THE CONTRA COSTA COUNTY LIBRARY COMMISSION (Walter Ruehlig)** **#302-01**
- N. **RESOLUTION NO. 2004/85 APPROVING STATE ROUTE 4 BYPASS SEGMENT1, PACKAGE 1 PROJECT DESIGN** **#1102-03**

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

**Item A** - Councilmember Davis requested the item be removed from the Consent Calendar for separate action due to his absence from the meetings.

On motion by Councilmember Kalinowski, seconded by Councilmember Conley the City Council approved the minutes of June 1, 2004. The motion carried by the following vote:

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

On motion by Councilmember Conley, seconded by Councilmember Kalinowski the City Council approved the minutes of June 8, 2004. The motion carried by the following vote:

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

**Item G** - Councilmember Simonsen recused himself from the item due to a conflict of interest.

On motion by Councilmember Conley, seconded by Councilmember Davis, the City Council approved the resolution. The motion carried by the following vote:

Ayes: Kalinowski, Davis, Conley, Freitas

Mayor Freitas congratulated Mr. Ruehlig on his reappointment to the Contra Costa Library Commission.

## COUNCIL REGULAR AGENDA

6. **RESOLUTION CONFIRMING CANVASS BY THE COUNTY CLERK OF CONTRA COSTA OF BALLOTS CAST AT THE SPECIAL BALLOT MEASURE "C" ELECTION HELD ON JUNE 8, 2004** **#702-02**

City Attorney Galstan presented the staff report dated July 2, 2004 recommending the City Council adopt the resolution confirming the results of the June 8, 2004 Special Election.

**RESOLUTION NO. 2004/89**

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

**10. CONTRA COSTA COUNTY OPEN SPACE FUNDING AUTHORITY, PARKS AND  
OPEN SPACE PROTECTION & PRESERVATION DISTRICT #205-01**

City Manager Jakel presented the staff report dated July 2, 2004 recommending the City Council determine how the City of Antioch should cast its ballots for city-owned properties and direct staff to process the ballots.

Following discussion the City Council agreed they would not support the method of voting.

On motion by Councilmember Conley, seconded by Councilmember Simonsen the City Council unanimously directed the City Manager to vote NO on all parcels on all assessments.

Mayor Freitas adjourned to the Antioch Development Agency with all Agency Members present.

**AGENCY REGULAR AGENDA**

**11. CONTRA COSTA COUNTY OPEN SPACE FUNDING AUTHORITY, PARKS AND  
OPEN SPACE PROTECTION & PRESERVATION DISTRICT #205-01**

On motion by Agencymember Conley, seconded by Agencymember Simonsen the Agency unanimously directed the City Manager to vote NO on all parcels on all assessments.

Mayor Freitas adjourned to the City Council with all Councilmembers present.

**PUBLIC HEARINGS**

**2. ORDINANCE ADDING SECTION 5-1.203 TO THE ANTIOCH MUNICIPAL CODE,  
DEALING WITH ELECTRIFIED FENCES #701-05**

City Attorney Galstan presented the staff report dated June 22, 2004 recommending the City Council: A) Introduce the ordinance by title only, and; B) Introduce the ordinance adding Section 5-1.203 to the Antioch Municipal Code, prohibiting electrified fences.

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

On motion by Councilmember Conley, seconded by Councilmember Simonsen the City Council unanimously A) Introduced the ordinance by title only; B) Introduced the ordinance adding Section 5-1.203 to the Antioch Municipal Code, prohibiting electrified fences.

**3. LOWE'S HOME IMPROVEMENT WAREHOUSE REQUESTS APPROVAL OF A FINAL PLANNED DEVELOPMENT, SPECIFIC PLAN AMENDMENT AND USE PERMIT TO DEVELOP AN APPROXIMATELY 170,216 S.F. HOME IMPROVEMENT AND GARDEN CENTER ON APPROXIMATELY 13 ACRES LOCATED AT THE NORTHEAST CORNER OF LONE TREE WAY AND CANADA VALLEY ROAD. (PORTIONS OF APN 056-120-045 AND -046) (PD-04-2, SP-04-2, UP-04-4)**

**#202-03**

Senior Planner Wehrmeister presented the staff report dated June 28, 2004 recommending the City Council: A) Adopt the resolution making findings in relation to entitlements and adoption of a Mitigated Negative Declaration for the Lowe's Home Improvement Warehouse Project; B) Introduce the ordinances in C) and D) by title only; C) Introduce the ordinance amending the East Lone Tree Specific Plan by designating the approximately 13 acres making up the Lowe's Home Improvement Warehouse project site Regional Retail (CR); D) Introduce the ordinance rezoning approximately 13 acres making up the Lowe's Home Improvement Warehouse project site to the Planned Development District (PD); E) Adopt the resolution approving a Final Planned Development and Use Permit and adopting a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Lowe's Home Improvement Warehouse Project, and; F) Revise condition #54 to reflect the Planning Commission's recommendation to allow 35-foot maximum height lighting fixtures.

Mayor Freitas opened the public hearing.

**Proponent**

James Manion, Site Development Manager for Lowes, reported in addition to their store on Somersville Road, market research supported the location for their store. He requested during their grand opening they be allowed to use temporary signage to announce the store opening. He stated the traffic study supported the dedicated right turn lane was a requirement for future buildout, therefore they requested reimbursement from the City for the design and construction costs.

Al Shaghghi, Civil Engineer, reported typical parking lot standards were 35-foot poles, which adequately light parking lots above any trees. He stated they had agreed to submit the photometric of the lighting and noted no direct lighting would be allowed to spill into the adjacent right of way or properties.

In response to Mayor Freitas, Mr. Shaghghi reported there were adequate setbacks on the northern portion of the property and they would agree to lower the lighting to 25 feet along Canada Valley.

Emil Stein, Antioch resident, spoke in support of the project noting it was a great tax base for the City. He encouraged the City Council to apply fair and consistent mitigation for all businesses in the City.

Dee Vieira, Antioch resident, provided written comment questioning the mitigation procedures for the burrowing owls on the property.

Senior Planner Wehrmeister responded one pair and one individual owl were found on the property and noted 13 acres were purchased for mitigation.

Mayor Freitas closed the public hearing.

City Attorney Galstan reported the ordinance allowed for 30-day display of grand opening pennants and flags.

Mayor Freitas requested City Attorney Galstan clarify whether any businesses are exempt from the restriction for pennants and flags. He noted if there were no exemptions other than the grand opening period, then the ordinance should be evenly applied to all businesses in Antioch.

Following discussion the City Council agreed to allow a maximum of 35-foot parking lot lights excluding the area along Canada Valley Road, which would have a maximum of 25-foot high fixtures. They directed staff be sensitive with regards to the light spread and avoid spillage onto the adjacent properties.

Assistant City Engineer Bernal clarified a condition requiring the dedicated right turn lane was placed on the project with respect to the future needs and it was consistent with the past policy of the City.

Councilmember Conley recommended the City form an agreement with Lowes to build and pay for the turn lane with reimbursement through a benefit district or repayment of sales tax.

City Manager Jakel stated, if directed, staff could draft an agreement and requested an estimate of costs from Assistant City Engineer Bernal.

Assistant City Engineer Bernal stated, with the dedication of the land from Lowe's, the cost of the improvements would be \$100,000 - \$150,000.

Mayor Freitas suggested the City reimburse Lowes for the design, construction and construction management with repayment through sales tax receipts beginning in fiscal year 2010.

In response to Mayor Freitas, Mr. Manion stated with the development agreement as previously outlined, Lowe's would be willing to dedicate the lane.

Councilmember Kalinowski requested project specific condition #55 be pulled out for a separate vote. He noted he would not support the condition as amended due to the fact he did not support giving financial incentives to the project. He further noted the City needed to maintain past practice and be consistent.

Councilmember Conley stated the right turn lane should have been included in the design of Lone Tree Way and paid for by the group of people who were going to inhabit Canada Valley Road north of Lowes. He noted it was not Lowes nexus to pay for the improvements.

On motion by Councilmember Simonsen, seconded by Councilmember Conley the City Council approved project specific condition #55 to read as follows:

#55 That a dedicated right turn lane shall be constructed on west bound Lone Tree Way to northbound Canada Valley Road as approved by the City Engineer. Lowes shall dedicate the property to the City. The City will reimburse Lowes for the design, construction and construction management. Repayment will be through sales tax receipt produced by the Lowes store beginning in fiscal year 2010 at \$50,000 per year and continue until the total cost is repaid.

The motion carried by the following vote:

Ayes: Davis, Conley, Simonsen, Freitas

Noes: Kalinowski

**RESOLUTION NO. 2004/86**

**RESOLUTION NO. 2004/87**

On motion by Councilmember Simonsen, seconded by Councilmember Conley the City Council unanimously: A) Adopt the resolution making findings in relation to entitlements and adoption of a Mitigated Negative Declaration for the Lowe's Home Improvement Warehouse Project; B) Introduce the ordinances in C) and D) by title only; C) Introduce the ordinance amending the East Lone Tree Specific Plan by designating the approximately 13 acres making up the Lowe's Home Improvement Warehouse project site Regional Retail (CR); D) Introduce the ordinance rezoning approximately 13 acres making up the Lowe's Home Improvement Warehouse project site to the Planned Development District (PD) and; E) Adopt the resolution approving a Final Planned Development and Use Permit and adopting a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Lowe's Home Improvement Warehouse Project. Project specific condition #54 was amended to read:

*#54. That fully contained flat lens lighting fixtures shall be utilized on the site and shall be limited to a 35 foot maximum height with the exclusion of the light standard on Canada Valley Road which shall be 25 foot maximum height. That lighting shall be limited to the minimum levels required for public safety and in general shall range from 0.5 to 1.5 foot candles in public areas.*

And the deletion of project specific condition #55, which was considered previously.

**4. TAIT AND ASSOCIATES INC. (PARACHINI) REQUESTS APPROVAL OF A FINAL DEVELOPMENT PLAN, USE PERMIT AND MINOR SUBDIVISION TO ALLOW THE CONSTRUCTION OF AN APPROXIMATELY 65,600 S.F. NEIGHBORHOOD SHOPPING CENTER AND OFFICE COMPLEX LOCATED ON THE NORTHEAST CORNER OF HILLCREST AVENUE AND WILDFLOWER DRIVE (APN 052-140-002). (PD-04-03, UP-03-16, PW 357-301-04) #202-03**

Assistant Planner Morris presented the staff report dated July 9, 2004 recommending the City Council: A) Adopt the resolution approving a Final Planned Development, Minor Subdivision, and Use Permit and adopting a Mitigated Negative Declaration; B) Introduce the ordinance by title only, and; C) Introduce the ordinance rezoning approximately 23 acres, making up the Hillcrest Avenue and Wildflower Drive, to Planned Development District (PD).

Deputy Director of Community Development Carniglia stated staff is supportive of the list of proposed uses within the development with the changes recommended in project specific condition #86 as recommended by the Planning Commission.

In response to Councilmember Simonsen, Associate Planner Morris clarified subsequent to the Planning Commission hearing, staff added the recommendation to limit office uses to 10% of the total square footage was an attempt to preserve the majority of retail spaces for revenue generating retail.

Councilmember Simonsen expressed concern for adding the recommendation to limit office space after the public process occurred at the Planning Commission hearing.

Mayor Freitas opened the public hearing.

**PROPONENT**

Peter Tobin, representing Tait and Associates, reported at the Design Review Board meeting, the City's consultant Terry Flynn supported replacing spandrel glass with smooth stucco behind storefront mullions painted a semi-gloss, therefore they requested project specific conditions #64 and #88 reflect that direction.

John Walsey stated they agreed with all conditions with the exception of the spandrel glass and the restriction on the amount of office space. He noted today was the first time he had been informed of the restriction, and it would financially prohibit the project from moving forward.

In response to Councilmember Simonsen, Mr. Walsey stated he would support a condition requiring they enter into a CC&R agreement to assure uniformed maintenance of the site as well as a joint access and parking agreement.



Following discussion, Mr. Walsey agreed to use the spandrel glass to simulate storefront windows on the elevations of the retail buildings facing Hillcrest Avenue.

City Attorney Galstan suggested under the CC&Rs a single landscape contractor could provide maintenance for the entire shopping center to provide continuity in the quality of services provided.

Councilmember Conley stated the property was highly visible and he did not support the back of the buildings along Hillcrest Avenue. He noted drive-thru uses were required to apply for a use permit and he did not support the proposed location for Starbucks due to stacking issues. He expressed concern for smaller office buildings and the site being divided into 14 separate parcels.

In response to Councilmember Conley, Mr. Walsey clarified the smaller buildings were more conducive to office buildings due to market demand.

Councilmember Kalinowski stated conceptually he did not support the project due to the fact it was a prime entry location and the architectural standard and design elements were not what he envisioned for the parcel.

David Reid, representing the Greenbelt Alliance, commended Councilmember Kalinowski for his vision and discussed the importance of planning proper pedestrian friendly environments.

Mr. Walsey stated he had worked with staff and the neighbors to modify the plans as requested and noted he felt the community would be proud of the project when it was completed.

Mayor Freitas stated the location was a signature piece of property and it should have a premier development on it. He noted he could not support the project due to the fact he felt it would perpetuate the undesirable development north of the site.

Councilmember Simonsen stated he supported the following motion although he did not support restricting office space within the development. He encouraged the applicant to work with staff and the City Council to address the concerns expressed.

On motion by Councilmember Conley, seconded by Councilmember Kalinowski, the City Council unanimously tentatively denied PD-04-03 without prejudice and directed staff to come back to the City Council with a proper resolution.

Mayor Freitas declared a recess at 9:01 P.M. The meeting reconvened at 9:13 P.M. with all Councilmembers present.

## **PUBLIC COMMENT**

Lori Cooper announced her daughter was on the East Bay Vipers, a sixteen and under East Bay Softball Team who had qualified for the Super World Series in Illinois in August. She reported they would be in Washington State for the Western World Series this weekend.

Mayor Freitas suggested to Ms. Cooper they work with the Deputy City Clerk and staff to recognize the members of the East Bay Vipers on September 14, 2004.

Councilmember Simonsen arrived at 9:14 P.M.

**5. SHAMROCK HOLDINGS, LLC (DALLAS RANCH) REQUESTS APPROVAL OF PLANNED DEVELOPMENT AND USE PERMIT APPLICATIONS TO ALLOW A PROFESSIONAL OFFICE AND RESIDENTIAL CARE FACILITY CAMPUS LOCATED ON THE EAST SIDE OF DALLAS RANCH ROAD, APPROXIMATELY 250 FEET SOUTH OF LONE TREE WAY (APN 072-450-004) (PD-04-6, UP-04-6)**

**#202-03**

Senior Planner Wehrmeister presented the staff report dated June 29, 2004 recommending the City Council take the following actions: A) Adopt the resolution approving a Final Planned Development and Use Permit; B) Introduce the ordinance by title only, and; C) Introduce the ordinance rezoning the project site from Planned Development District to the Planned Development District (PD).

Mayor Freitas opened the public hearing.

Brigid Flanigan, President of Shamrock Holding LLC, thanked staff for their responsiveness and stated they were in agreement with all the conditions of approval. She reviewed the site plan and provided the City Council with photos of their Modesto Facility.

Don Peterson, President of Permeira Care LLC Management Company, discussed the services they provided and gave a brief overview of the dementia care unit.

Ms. Flanigan provided the City Council with a memo outlining the constraints of the other sites they reviewed for the project as well as why they could move forward only with the site. She reported they would support the computer media center at the Senior Citizen Center and contribute \$50,000 at the time of issuance of the building permit. She reported they had been turned down by two office developers and currently there are 4 more developers considering the project. She requested the City Council approve the project as submitted.

Dee Vieira expressed concern regarding the close proximity of the project to Dallas Ranch Middle School and the noise impacts to the residents in the project.

Dr. Dale Watson spoke in support of the project noting it would benefit Alzheimer's patients and Senior Citizens in the community.

Sandra Golightly spoke in support of the project noting it was well designed and provided a service to the community greatly needed. She further noted the applicant had been cooperative and she felt placing it adjacent to a school would benefit the residents of the facility. She encouraged the City Council to approve the project.

Clinton Fields stated he supported the project although he felt there was an alternate location in Antioch that would be more appropriate.

Mayor Freitas closed the public hearing.

Councilmember Simonsen commended the applicant for bringing a quality project needed to Antioch and assisting the Senior Center with their computer center.

Mayor Freitas requested condition #53 be added requiring up to \$50,000 be provided to the Antioch Senior Citizens Facility provided by Shamrock Holdings LLC at the issuance of the building permit. The condition was accepted by the applicant.

#### **RESOLUTION NO. 2004/88**

On motion by Councilmember Conley, seconded by Councilmember Davis, the City Council unanimously: 1) Adopt the resolution approving a Final Planned Development and Use Permit; 2) Introduced the ordinance by title only, and; 3) Introduced the ordinance rezoning the project site from Planned Development District to the Planned Development District (PD), with project specific condition #52 revised to read:

*#52. That prior to issuance of the building permit for the assisted living facility, the applicant shall have: i) conveyed the entire office parcel to an office developer or group of end users for their own development in fee title absolute within one year of project approval whose qualifications are acceptable to the City Manager and; ii) the office developer's acquisition agreement with the applicant would require the office parcel be developed for office use, and;*

And the addition of project specific condition #53 to read:

*#53 That Shamrock Holdings LLC shall provide up to \$50,000 to the Antioch Senior Center facility at the issuance of the building permit.*

Mayor Freitas welcomed Ms. Flanigan and her team to the community and commended them on the design of the facility.

#### **COUNCIL REGULAR AGENDA**

#### **7. BLUEROCK BUSINESS CENTER; REYNOLDS & BROWN PROJECT #901-05**

City Attorney Galstan presented the staff report dated June 21, 2004 recommending the City Council: A) Adopt the resolution partially rescinding Resolution No. 2003/140; B) Adopt the resolution rescinding Resolution No. 2003/141; C) Adopt the resolution partially rescinding Resolution No. 2003/142; D) Introduce the ordinance by title only; E) Introduce the ordinance partially rescinding Ordinance No. 1010-C-S; F) Introduce the ordinance by title only, and; G) Introduce the ordinance partially rescinding Ordinance No. 1011-C-S.

Tom McNell, Antioch resident and co-author of Measure "U", stated he was very involved in Measure "C" and noted they fully supported the office project on parcel "D". He expressed concern regarding inadequacies in the EIR related to school impacts at Dallas Ranch Middle School and miscalculations to the percentage of increased traffic as outlined in the traffic study. He suggested the EIR be amended to show the proper impacts on the community prior to development moving forward on parcels "A" and "B".

Dana Perry, representing Reynolds and Brown, thanked the supporters of the NO on "C" campaign and stated they had heard the community, respect the will of the voters and accept the results of the election. He noted they remain committed to the City and intend to be a good corporate citizen. He clarified the certification of the EIR was not a proper subject for the referendum and was not before the City Council at that time. He noted if and when they came back with a project, they would comply with CEQA and comments on the EIR could be heard at that time.

City Attorney Galstan stated Mr. McNell's comments were in the record and if there were inadequacies in the EIR, those types of technical corrections could be made by an addendum if a project came forward on those parcels.

In response to Mayor Freitas, City Attorney Galstan stated the City Council could direct staff to consider the issues Mr. McNell had raised for future discussion and share the information with the public and applicant.

**RESOLUTION NO. 2004/90**  
**RESOLUTION NO. 2004/91**  
**RESOLUTION NO. 2004/92**

On motion by Councilmember Conley, seconded by Councilmember Simonsen the City Council unanimously: A) Adopted the resolution partially rescinding Resolution No. 2003/140; B) Adopted the resolution rescinding Resolution No. 2003/141; C) Adopted the resolution partially rescinding Resolution No. 2003/142; D) Introduced the ordinance by title only; E) Introduced the ordinance partially rescinding Ordinance No. 1010-C-S; F) Introduced the ordinance by title only, and; G) Introduced the ordinance partially rescinding Ordinance No. 1011-C-S.

**8. RESOLUTION PARTIALLY RESCINDING OWNER PARTICIPATION AGREEMENT  
WITH REYNOLDS AND BROWN #901-05**

City Attorney Galstan presented the staff report dated June 24, 2004 recommending the City Council adopt the resolution rescinding Agreement except for Paragraphs 2.02, 2.03 and 2.04.

Dana Perry, representing Reynolds and Brown, stated they remain committed and want to develop a quality project on the site. He clarified in Section 5.1 of the Owner Participation Agreement there was a provision which required them to meet and confer as to whether or not they wanted to go forward with the agreement. He stated they were willing to waive the provision provided the City Council adopted the resolution keeping paragraphs 2.02 - 2.04 in the document. He encouraged the City Council to adopt the resolution.

Tom McNell stated the citizens were under the understanding if the referendum went forward the OPA would be null and void. He felt provision 2.03 of the agreement was a quality of life issue and should not be granted by the City Council.

Councilmember Simonsen clarified a public trail traversing through the development did not comply with the Countywide Bicycle and Pedestrian Plan and General Plan. He felt the provisions were reasonable and he would support them now or through the development agreement for Parcel "A".

On a motion by Councilmember Kalinowski, seconded by Mayor Freitas to rescind the Owner Participation Agreement between the City of Antioch and Reynolds and Brown failed by the following vote:

Ayes: Kalinowski, Freitas

Noes: Davis, Conley, Simonsen

Councilmember Conley stated he felt a bicycle trail and walking path was not appropriate along the fence line.

In response to Mayor Freitas, City Attorney Galstan clarified the entire Owner Participation Agreement would be rescinded and the only active provisions would be the paragraphs approved by the City Council.

**RESOLUTION NO. 2004/93**

On motion by Councilmember Conley, seconded by Councilmember Davis, the City Council adopted the resolution rescinding Agreement except for Paragraphs 2.02 and 2.04. The motion carried by the following vote:

Ayes: Davis, Conley, Simonsen, Freitas

Noes: Kalinowski

A motion was made by Councilmember Conley, seconded by Councilmember Simonsen, to approve section 2.03 of the Owner Participation Agreement, with the deletion of "Elevators will not be required for the apartment project on parcel "A". The motion failed by the following vote:

Ayes: Conley, Simonsen

Noes: Kalinowski, Davis, Freitas

Mayor Freitas declared a recess at 10:32 P.M. The meeting reconvened at 10:37 P.M. with all Councilmembers present

**9. RESOLUTION DIRECTING STAFF TO INDEFINITELY SUSPEND THE  
PROCESSING OF A SPECIFIC PLAN FOR FUTURE URBANIZATION AREA #1  
(FUA#1) #202-02**

Deputy Director of Community Development Carniglia presented the staff report dated July 6, 2004 recommending the City Council take action as appropriate on the resolution.

Allen Moore, Land Use Attorney with Gagan, McCoy, McMahon & Armstrong, representing the Zeka Group, requested the City Council not adopt the resolution. He announced they had presented a letter, which set forth their legal response and the concerns they had with the resolution. He stated as proposed, the resolution would prohibit any development from occurring on their property, which was the only project within FUA#1 having a General Plan designation for residential use. He stated the adoption of the resolution would result in a taking of all economically viable land on the Zeka Ranch property.

Mayor Freitas stated the correspondence from Gagan, McCoy, McMahon & Armstrong was now part of the record.

Dale Watson spoke in support of the resolution to suspend the processing of the FUA#1 Specific Plan.

Clinton Fields requested clarification with regards to whether the City Council would be considering the Specific Plan in the future. He felt no development should occur until the infrastructure was adequate and the Urban Limit Line had been established.

David Reid, Greenbelt Alliance, commended the City Council for their consideration of the resolution and voiced his support for the approval of suspending the processing of the Specific Plan for FUA#1.

Mayor Freitas read into the record written comments from Dee Vieira requesting the City Council be specific with regards to what they mean by "indefinitely suspend the processing of the specific plan for FUA#1."

Tom McNell commended the City Council on the progress they had made in understanding the views of the citizens. He expressed concern individual projects could come forward for FUA#1 through the RDA process. He suggested capping the senior development at 1500 units and a timing mechanism for moving forward.

Councilmember Conley noted he suggested suspension of the FUA#1 Specific Plan to respond to the community and allow for the transportation issues to be addressed. He noted

not providing the housing stock for the Bay Area sent a clear message for state and federal assistance needed to address the transportation needs in East County. He stated prior to moving forward a funding mechanism needed to be in place for Highway 4 and BART improvements.

Councilmember Simonsen expressed concern the suspension of the FUA#1 Specific Plan would eliminate the tax generation for infrastructure improvements. He encouraged the citizens to voice their concerns to Brentwood, Oakley and the County who were impacting the roads with substantial residential development. He agreed metering growth with infrastructure improvements was appropriate.

Mayor Freitas stated the referendum vote on June 8th sent a clear message to the City Council the citizens want to radically slow growth unless or until infrastructure is improved. He reviewed the benefits the City would have received through the FUA#1 Specific Plan and Resource Management Plan. He stated the criteria in the resolution indicated Senior Housing was the only consideration the City Council would be making due to the fact it did not impact commute time and schools. He clarified if the resolution was approved the Sand Creek Specific Plan was dead. He reported the Contra Costa Transportation Authority, with regards to the extension of the half-cent sales tax approved criteria indicating infrastructure milestones would need to occur if there was any movement of the Urban Limit Line. He noted the resolution was a good first step in the process and hopefully all parties could work together in the future to develop a plan beneficial to the community.

Councilmember Kalinowski stated he did not feel development should occur in FUA#1 until the City could meter growth with specific infrastructure improvements. He stated he would support extracting \$20,000 per house from the developers to fund police services, public works, road improvements and park and median maintenance.

In response to Mayor Freitas, Councilmember Kalinowski clarified he would support conditioning future development in FUA#1 as follows:

- 1) That any future residential development approved beyond the senior project on the Richland and Zeka properties would kill that project.
- 2) That permits could not be pulled on the senior project until after January 1, 2008
- 3) That a fee of \$20,000 per unit be added to fund law enforcement, public works, road improvements and park & median maintenance.

Mayor Freitas felt Councilmember Kalinowski's demands were unreasonable and the reaction of the City Council was to kill the Specific Plan for FUA#1, with the exception of senior projects which did not have impacts to schools and traffic.

Councilmember Conley stated developers needed to contact elected officials to request financial assistance for EBART, the widening of Highway 4 and Vasco Road improvements.

Councilmember Simonsen stated the resolution was a policy statement of the City Council and it provided guidance to staff they had raised the bar on residential development in the Sand Creek focus area.

**RESOLUTION NO. 2004/94**

On motion by Councilmember Simonsen, seconded by Mayor Freitas, the City Council approved the resolution directing staff to indefinitely suspend the processing of a Specific Plan for Future Urbanization Area #1. The motion carried by the following vote:

Ayes: Davis, Simonsen, Freitas

Noes: Kalinowski, Conley

Mayor Freitas adjourned to the Antioch Development Agency with all Agency Members present.

**AGENCY REGULAR AGENDA**

**12. ALLOCATION OF "SET ASIDE" FUNDS FOR HOUSING ACTIVITIES #709-01**

Assistant to the City Manager Gegg presented the staff report dated June 3, 2004 recommending the City Council provide direction to staff concerning allocation of "set aside" funds for housing activities.

Councilmember Kalinowski stated it was not in the City's best interest to do work for for-profit private owners. He noted he would be supportive of Habitat for Humanity and Eden Housing type projects.

Janet Kennedy clarified Simpson Housing and Benthall Properties were for-profit organizations, which had a long history of housing development.

Mayor Freitas stated his preference would most likely be for the non-profit although there was a consideration for the type of housing and the types of goals that are met.

Councilmember Conley suggested a Council Study Session on the projects. He stated his preference would be to finish areas started and consider what is being offered.

Mayor Freitas suggested a study session be held to allow for more discussion and requested pictures of the properties be provided at the time.

Ms. Kennedy stated she would support a Study Session so Council could prioritize the projects based on special needs and funds available.

Mayor Freitas requested a report on Eden Housing.

Ms. Kennedy stated she would request Eden Housing provide the report to the City Council.



Councilmember Simonsen requested clarification with regards to the ERAF monies available and expressed concern for a high concentration of low and very low income housing. He requested an update on Habitat for Humanity.

Chairperson Freitas adjourned to the Antioch City Council with all Councilmembers present.

### **PUBLIC COMMENTS**

Sandra Golightly quoted several standard and project specific conditions the Design Review Board imposed on developers and felt they needed to be enforced. She advised Council of various locations within the City where she felt the conditions were not being upheld.

### **COUNCIL COMMUNICATIONS**

Mayor Freitas reported he attended a Memorial Service for former Mayor Verne Roberts, which was a wonderful service. He wished the Robert's family the best and thanked the City Council for participating.

Mayor Freitas stated the City Council was anxious to hear when the City was going to release a request for proposal for the downtown project.

### **STAFF COMMUNICATIONS**

City Manager Jakel announced there would be only one City Council meeting in August, which will be held on the 10th. He reported the Mayor's conference will be held on August 5, 2004 at Prewett Family Park.

With no further business, Mayor Freitas adjourned the meeting in honor of Verne Roberts at 12:04 A.M. to the next regular Council meeting on July 27, 2004.

Respectfully submitted,

JANET CHALK, Deputy City Clerk