

## ANTIOCH CITY COUNCIL

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

**November 9, 2004  
Council Chambers**

### **6:30 P.M. - CLOSED SESSION**

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

### **7:00 P.M. - REGULAR SESSION**

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

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

Mayor Freitas reported the City Council had been in Closed Session with the Labor Negotiator. He noted there was no reportable action.

### **PLEDGE OF ALLEGIANCE**

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

### **PROCLAMATIONS**

Recognition of Aaron Miles  
Homeless Awareness Month, November 2004  
American Recycles Day, November 15, 2004  
National Family Week, November 21 - 27, 2004

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

Councilmember Davis presented the proclamation proclaiming November 21-27, 2004 as National Family Week to Mr. And Mrs. Sailors who stated it was an honor to accept the proclamation. As Antioch residents for 43-years, they thanked the Antioch Unified School District and their church for their support.

Councilmember Conley presented the proclamation proclaiming November 15, 2004 as American Recycles Day to Julie Haas-Wajdowicz, who presented, to the Council the cover of the 2005 Reuse and Recycling Guide, which would be inserted into the SBC phone books. She then reminded the Council of the invitation they had received to the Recycling Days release of the phone book on November 15, 2004.

Councilmember Simonsen presented the proclamation proclaiming November 2004 as *Homeless Awareness Month* to Ms. Magnus, who accepted the proclamation on behalf of Contra Costa County and thanked the City Council for the proclamation. She reviewed their 10-year plan to permanently end homelessness.

Councilmember Kalinowski presented the proclamation proclaiming November 20, 2004 as *Aaron Miles Day* to Aaron Miles who accepted the proclamation and thanked the City for the recognition. He stated he was looking forward to giving something back to the community and encouraging the youth to follow their dreams.

Mayor Freitas on behalf of the City Council and community thanked Mr. Miles for coming back to Antioch and being a role model for Antioch's youth.

Dave Sanderson announced a special recognition program would be held on November 20, 2004 at Golf 'n Games Family Fun Center beginning at 9:00 A.M. He thanked Golf 'n Games, Contra Costa Times, Antioch High School, Gloria Martin and family, Pleasant Hill Bayshore Disposal and Wal-Mart for sponsoring the event.

Mr. Miles presented the City Council with autographed photographs.

Jim Davis congratulated Mayor Freitas, Councilmembers Simonsen and Kalinowki, City Clerk Jolene Martin and City Treasure Elect Donna Conley for their victory during the November 2, 2004 elections.

## **ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS**

Walter Ruehlig thanked those who voted for him during the November 2, 2004 election. He reported he and a group of Library supporters would be taking the library grant signatures to Sacramento November 12, 2004. He also announced Andrew Becker, a member of the Antioch Youth Council, turned in 680 signatures, bring the total to 5300. He reported the Friends of the Library hosted the *Solar Swim Club - Swim for the Books* event which was a very successful event.

Rich Carraher, representing the El Campanil Theater, announced the holiday schedule for the theater events and provided a contact number and website address for anyone wishing to receive additional information.

## **PUBLIC COMMENTS**

Manny Soliz, Antioch resident, congratulated everyone who won the election on November 2, 2004 and thanked everyone who supported his candidacy as well as the democratic system.

Emil Stein, Antioch resident, questioned when the concertina wire on the sound wall at the Nokes Auto Dealership would be removed. He suggested a City Official visit the site and have them remove it or issue a citation.

City Manager Jakel stated he was working with Mr. Nokes regarding completion of the project and the concertina wire would be removed soon.

Douglas Tokes, Antioch resident, congratulated the Councilmembers who were reelected. He encouraged the residents to pressure the state to stop spending local gas tax money. He questioned whether the construction on East 18th Street had stopped and if PG&E was responsible for the delay.

Community Development Director Brandt stated the delay was due to PG&E and the undergrounding was scheduled to be completed by Thanksgiving. He noted, due to the weather, the remainder of the construction would move forward in the spring of 2005.

Bruce Ohlson, representing the East Bay Bicycle Coalition, congratulated those recently elected and disclosed he had recently been appointed to the Pittsburg Planning Commission. He reported on October 21, 2004 the Contra Costa Transportation Authority and Caltrans held a public hearing regarding the environmental document for the widening of Highway 4 between Loveridge Road and Highway 160. He noted no significant opposition was voiced. He suggested the City Council request staff look into bike lanes in both directions on "A" and "G" Street crossing Highway 4.

Mayor Freitas congratulated Mr. Ohlson on his appointment to the Pittsburg Planning Commission.

**1. COUNCIL CONSENT CALENDAR**

- A. APPROVAL OF COUNCIL MINUTES FOR OCTOBER 12, 2004 ..... #301-02**
- B. APPROVAL OF COUNCIL WARRANTS .....#401-02**
- C. REJECTION OF CLAIMS .....#704-07**
  - 1. Cynthia Ann Northup, #04/05-1498 (stolen vehicle)**
  - 2. Shannon Owens, #04/05-1514 (civil rights, personal injury)**
- D. LEGISLATION AND ADVOCACY.....#701?04**
- E. RESOLUTION NO. 2004/138 APPROVING BENEFIT CHANGES FOR THE CONFIDENTIAL UNIT .....#509-03**
- F. RESOLUTION NO. 2004/139 APPROVING TERMS OF AGREEMENT FOR THE ANTIOCH PUBLIC EMPLOYEES' UNION, LOCAL ONE .....#509-02**
- G. RESOLUTION NO. 2004/140 DECLARING INTENTION TO ORDER CONVERSION OF OVERHEAD UTILITY LINES TO UNDERGROUND ON "L" STREET BETWEEN WEST FOURTH STREET AND WEST TENTH STREET (PW 234-9) .....#1201-07**

- H. **RESOLUTION NO. 2004/141 APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING THE CITY CLERK TO ADVERTISE FOR BIDS FOR THE 2004/05 SEWER AND WATER MAIN REPLACEMENT PROJECT (PW 503-10)... #1205-01**
  
- I. **RESOLUTION NO. 2004/142 APPROVING PROPERTY PURCHASE AGREEMENTS (2381 and 2385 Whitetail Drive) .....#1001-03**

On motion by Councilmember Conley, seconded by Councilmember Davis, the Council unanimously approved the Council Consent Calendar with the exception of item D, which was removed for further discussion.

*Item D* - Councilmember Simonsen thanked the public for supporting Measure J, and thanked Mayor Freitas for working on the Expenditure Plan Committee.

On motion by Councilmember Simonsen, seconded by Councilmember Conley the City Council unanimously approved item D.

**PUBLIC HEARINGS**

- 2. **INTERIM URGENCY ORDINANCE EXTENDING THE EFFECTIVENESS OF ORDINANCE NO. 1034-C-S, PROHIBITING APPROVAL OF CONDOMINIUM CONVERSIONS DURING STUDY PERIOD .....#701-05**

City Attorney Galstan presented the staff report dated November 3, 2004 recommending the City Council adopt the urgency ordinance effectiveness of Ordinance No. 1034-C-S.

In response to Councilmember Simonsen, City Attorney Galstan stated since the City Council had adopted the urgency ordinance, planning staff had been collecting ordinances examples from other cities; furthermore, he had done legal research regarding some of the restraints. He then reported this item would be heard at the Planning Commission as a Study Session item in December.

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

**ORDINANCE NO. 1036-C-S**

On motion by Councilmember Conley, seconded by Councilmember Kalinowski the City Council unanimously adopted the urgency ordinance extending Ordinance No. 1034-C-S.

**COUNCIL REGULAR AGENDA**

- 3. **COUNCIL MEETING SCHEDULE FOR THE MONTH OF DECEMBER .....#301-01**

City Manager Jakel presented the staff report dated November 2, 2004 recommending the City Council schedule a meeting for December 7th, for the purpose of certifying the election

results and swearing in the City Council, retaining the meeting of December 14th to conduct the regular business of the City.

Ralph Hernandez, speaking on behalf of "Of By and For the People" Cable / Community Program, stated they would relinquish their regular program's air time to allow the December 7, 2004 City Council Swearing-in Ceremony to be shown live on Public Access Channel 26. He noted he would contact Sean South regarding conceding his air time and relay the information to City Manager Jakel.

On motion by Councilmember Davis, seconded by Councilmember Conley the City Council unanimously determined to meet on December 7th for the purpose of certifying the election results and swearing in the City Council and again meeting on December 14, 2004 for the regularly scheduled City Council meeting.

#### **4. DISCUSSION OF POLITICAL MAILER FROM NOVEMBER 2ND ELECTION**

.....#301-01

Emil Stein, Antioch resident, stated he received the original political mailer and he believed it was inappropriate. He noted he gave his mailer to Ralph and Norma Hernandez to facilitate an investigation.

Norma Hernandez, Antioch resident, discussed the political mailer and flyer distributed to the community. She stated Citizens for Democracy would be turning over this information to the Fair Political Practice Commission for an investigation. She provided a contact number and encouraged anyone who received the mailer to contact them.

Ralph Hernandez, Chairperson of Citizens for Democracy, stated the mailer being discussed this evening did not meet government code. He noted they would be pursuing this matter as a conspiracy and reported any elected official found guilty and convicted of this crime would be disqualified from office. He added the printing company who produced and mailed the flyer would be included in any prosecution pursued.

Councilmember Conley stated he had requested this item be brought before the Council due to the many inaccuracies and false allegations. He stated he would like the City to follow up on closed session leaks and the legal issues related to the mailer. He requested the City officially request through the City Manager, Mayor or City Attorney, the Grand Jury and Fair Political Practice Commission investigation on the flyer.

Councilmember Kalinowski expressed his concern and disappointment closed session information was provided to the public through a political mailer and supported Councilmember Conley's request for a the Grand Jury and Fair Political Practice Commission to conduct an investigation related to the leaks out of City Council Closed Session and the legality of the mailer. He requested the City Attorney draft a City Ordinance prohibiting any member of the City Council from discussing anything other than the vote of closed sessions as well as penalties for violations.

Councilmember Simonsen expressed his displeasure of both the inclusion of inaccurate information, but also the timing of the flyer, purposely sent at the very end of the campaign period, when it would be impossible to refute. He voiced his support for the request of a Grand Jury and Fair Political Practice Commission investigations.

Councilmember Davis stated emphatically he was not responsible for, aware of nor did he contribute momentarily to the political mailer being discussed this evening.

Mayor Freitas read written comments provided by Dee Vieira, Antioch resident recommending the City Council not spend City funds to investigate the political mailer regarding Mayor Freitas.

Councilmember Conley clarified the only city funds spent to request an investigation would be for postage.

Mayor Freitas expressed concern the confidential information discussed in closed session had been leaked. He thanked Councilmembers Conley and Kalinowski for voicing their support to stop negative campaigning. He stated the mailer and web page had inaccurate information and he felt it was important to discover who designed, produced, distributed and financed the mailer. He voiced his support to request the Grand Jury and Fair Political Practice Commission investigations as well as directing the City Attorney to draft an ordinance that clearly stipulates Closed Session items must remain confidential.

In response to Mayor Freitas, Councilmember Davis, again stated he had no knowledge of who produced, wrote, distributed or financed the mailer.

On motion by Councilmember Conley seconded by Councilmember Kalinowski the City Council unanimously: 1) Directed the City Attorney to send a letter requesting the Grand Jury investigate the mailer; 2) Directed the City Clerk to send a letter requesting the Fair Political Practice Commission investigate the mailer, and; 3) Directed the City Attorney to draft an ordinance for City Council consideration regarding remedies to stopping Closed Session leaks.

**PUBLIC COMMENTS** - None

## **COUNCIL COMMUNICATIONS**

Councilmember Davis invited the public to attend the Veteran's Day Program scheduled for on November 11, 2004 at the foot of "L" Street beginning at 11:00 A.M.

Councilmember Kalinowski reported that at Pittsburg's request, the discussion regarding the Urban Limit Line had been continued until after Thanksgiving.

Councilmember Conley reported he was Masters of Ceremony for the Halloween Contest at the El Campanil, which was a very successful event. He encouraged the community to attend the Classic Film series at the theater.

Councilmember Simonsen announced that following the Veteran's Day program, the Veteran's of Foreign Wars would be hosting a barbeque for Veterans from 11:00-4:00 P.M. on November 11, 2004.

Mayor Freitas reminded the community the City Council would be meeting on November 23, December 7 and December 14, 2004. He noted Aaron Miles Day would be on November 20, 2004 at 9:00 A.M. at Golf 'n Games in Antioch. On behalf of the City Council, Mayor Freitas congratulated Director of Community Development Brandt on his recent marriage.

**STAFF COMMUNICATIONS** - none

With no further business, Mayor Freitas adjourned the meeting at 8:18 P.M. to the next regular Council meeting on November 23, 2004.

Respectfully submitted,

L. JOLENE MARTIN, CMC  
City Clerk