

ANTIOCH CITY COUNCIL

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

**February 22, 2005
Council Chambers**

6:00 P.M. - CLOSED SESSION

- 1) CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION. Significant exposure to litigation, one potential case. This closed session is authorized by Government Code §54956.9(b)(1).
- 2) PUBLIC EMPLOYEE PERFORMANCE EVALUATION. Title: City Attorney. This closed session is authorized by Government Code §54957.

Mayor Freitas reported the City Council had been in closed session; there was no reportable action.

Mayor Freitas called the meeting to order at 7:04 P.M., and 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 - None

PRESENTATIONS - Introduction of Relay for Life Participants

Denise Skaggs and Tammy Leach thanked the City for their support of the American Cancer Societies Relay for Life and introduced the current Chair, Carole Huff.

Carole Huff presented a certificate and letter of thanks from the American Cancer Society for the City's support and participation in the Relay for Life events. She invited the community to attend the Relay for Life Kick Off at Humphrey's on the Delta at 7:00 P.M. on February 23, 2005 and provided a contact number and website address for anyone wishing to receive additional information. She announced the Relay would be held on June 25-26, 2005.

Mayor Freitas thanked the American Cancer Society for sponsoring the event and encouraged the community to participate in the Relay. He recognized Denise Skaggs and Tammy Leach for representing the City of Antioch and donating their time to the event.

Tammy Vocale, Jared Harrison and Tammy Harrison introduced themselves as members of the Relay for Life committee.

PUBLIC COMMENTS

Terry Ramus, speaking to the Urban Limit Line, suggested the City of Antioch when attending Regional Urban Limit Line meetings, discuss the need for mandating a tie to infrastructure improvements with the movement of the Urban Limit Line. He cautioned the City to be wary of a hidden agendas that lie within the regional efforts.

Ken Lee, Antioch resident, requested information on Warrant #86135 and confirmation of \$7,200 placed into the fund by Mr. Nokes for "the construction of the fence along Markley Creek."

City Manager Jakel stated he would discuss the issue with Mr. Lee and take him through the process with the finance department.

1. COUNCIL CONSENT CALENDAR

- A. APPROVAL OF COUNCIL MINUTES FOR JANUARY 25, 2005#301-02**
- B. APPROVAL OF COUNCIL WARRANTS#401-02**
- C. APPROVAL OF TREASURER'S REPORT FOR JANUARY 2005#401-02**
- D. LEGISLATION AND ADVOCACY.....#701-04**
- E. ORDINANCE NO. C-S 1038-C-S AMENDING SECTION 9-5.1901 OF THE ANTIOCH MUNICIPAL CODE, DEALING WITH NOISE ATTENUATION REQUIREMENTS#202-05**
- F. ORDINANCE NO. C-S 1039-C-S REZONING APPROXIMATELY 7.8 ACRES, MAKING UP THE VENTURE CORPORATION PROJECT SITE TO PLANNED DEVELOPMENT DISTRICT (PD).....#202-03**
- G. AUTHORIZATION TO ADVERTISE FOR BIDS FOR THE REHABILITATION OF THE CHICHIBU PARK BOCCIE BALL COURTS (PW 113-P8A).....#1402-03**
- H. RESOLUTION NO. 2005/18 and RESOLUTION NO. 2005/22 APPROVING FINAL MAP AND IMPROVEMENT PLANS FOR SAND CREEK RANCH SUBDIVISION, UNIT 5, (WILLIAM LYON HOMES, INC.), TRACT NO. 8885 AND ANNEXING TO THE CITY WIDE LIGHTING AND LANDSCAPING DISTRICT 10, (PW 639-5).....#802-02**
- I. RESOLUTION NO. 2005/19 APPROVING THE JOINT EXERCISE POWERS AGREEMENT BETWEEN CONTRA COSTA COUNTY; CONTRA COSTA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT; ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT; ZONE 7 - ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT; CITY OF ANTIOCH; AND THE CITY OF CONCORD TO DEVELOP A MONITORING PLAN**

AND IMPLEMENT MONITORING FOR OUR AQUATIC PESTICIDE PERMIT UNDER THE REGIONAL WATER QUALITY CONTROL BOARDS#814-03

J. ASSESSMENT DISTRICT PROCEEDINGS FOR MAINTENANCE, BLACK DIAMOND RANCH#802-02

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

Item A - Councilmember Simonsen stated he would be abstaining from voting on the minutes of January 25, 2005 due to his absence from the meeting.

On motion by Councilmember Conley, seconded by Councilmember Kalinowski the City Council approved the minutes of January 25, 2005. The motion carried by the following vote:

Ayes: Davis, Kalinowski, Conley, Freitas

Abstain: Simonsen

Item H - In response to Mayor Freitas, Director of Community Development Brandt clarified the City maintains a one-foot strip at the end of every road, intended to give the City control of future access. He stated he would provide the City Council with a copy of the final map in which the lots are shown.

On motion by Councilmember Conley, seconded by Councilmember Kalinowski the City Council unanimously approved Item H.

COUNCIL REGULAR AGENDA

3. RESOLUTION RECOGNIZING THE RIVERTOWN DISTRICT AS A HISTORIC DISTRICT#1407-01

City Attorney Galstan presented the staff report dated February 15, 2005 recommending the City Council adopt the resolution.

Bari Costello, representing the Antioch Historical Society, Beverly Maciel, representing the Antioch Women's Club, Cal McNeilly, Susan Welch and Don Bright representing the Rivertown Preservation Society, spoke in support and urged the City Council to approve the resolution.

Councilmember Conley voiced his support of the resolution and suggested the City Council consider unique street signs for the Rivertown District.

Councilmember Simonsen suggested the City look at specific requirements and timelines for the preservation of historical buildings.

Mayor Freitas stated he looked forward to working collaboratively with the citizens to make sure what is approved in the historic downtown area will honor history and blend well with the existing businesses.

RESOLUTION NO. 2005/21

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

PUBLIC HEARINGS

- 2. IN-SHAPE HEALTH CLUBS, INC. REQUESTS APPROVAL OF PLANNED DEVELOPMENT, TENTATIVE MAP, AND USE PERMIT APPLICATIONS TO DEVELOP A 186,000 S.F. COMMERCIAL / RETAIL CENTER INCLUDING A 60,000 S.F. FITNESS CENTER ON APPROXIMATELY 18 ACRES LOCATED ON THE NORTHEAST SIDE OF LONE TREE WAY, APPROXIMATELY 50 FEET NORTH-WEST OF DALLAS RANCH ROAD / EAGLERIDGE DRIVE (APN 072-012-084) (PD-04-5; UP-04-14).....#202-03**

Senior Planner Wehrmeister presented the staff report dated February 17, 2005 recommending the City Council: A) Introduce the ordinance by title only; B) Introduce the ordinance to change the zoning of the project site to the Planned Development District; and, C) Adopt the resolution approving the Final Planned Development, Tentative Map, and Use Permit and adopting of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the In-Shape Health Club and Commercial Center project.

Mayor Freitas reported the Council was in receipt of a letter from Mr. Briggs, who requested it become a part of the record.

In response to Mayor Freitas, Senior Planner Wehrmeister stated the project was conditioned to comply with the landscaping ordinance. She noted the developer would be the owner/occupant of the site and would want the project to be maintained in a "Class A" condition.

Mayor Freitas questioned whether there would be any liability to the City, favoritism or inconsistency in applying one policy decision for a project and applying a different policy decision for this project? He further requested the landscape ordinance articulate the terms and conditions.

Councilmember Simonsen suggested the ordinance include a common area maintenance agreement.

Senior Planner Wehrmeister stated staff had not interpreted the master use list as including a 7-11. Mayor Freitas stated he was opposed to any convenience store being built as part of the project or any other such project along Lone Tree Way.

Mayor Freitas opened the public hearing.

Paul Rothbard, representing In-Shape Health Clubs, reported they had worked with staff and the Design Review Board, in an effort to resolve their concerns and were in full agreement with the Staff report. He requested the City Council approve the project.

Councilmember Conley stated he felt the concrete soundwall should be extended approximately 100 feet, to protect those homes on the same elevation and adjacent to the back of the corner of the building.

Mr. Rothbard agreed to extend the masonry wall a minimum of 100 feet and requested the latitude to extend it all the way to their property line.

In response to Councilmember Kalinowski, Mr. Rothbard clarified they were not targeting an Auto Parts Store as a tenant, adding "In Shape" would like the flexibility and latitude. He stated he would support a restriction for convenience store uses on the property.

Speaking to the subdivision request, Mr. Rothbard stated they would agree to have very strict CC&Rs subject to the approval of the City Attorney.

City Attorney Galstan stated the ordinance required there be a single landscape and maintenance provider for the entire center irrespective of the parcel ownerships. He added that the provider would also maintain any undeveloped parcels. He noted this would be a condition of approval in addition to the future ordinance that would be adopted.

Mayor Freitas stated that maintenance shall include maintaining litter control and maintenance of the buildings.

Mr. Rothbard agreed to adding the requirements as a condition of approval. He clarified the subdivision request was to allow tenants to purchase their buildings.

Mayor Freitas stated as of February 15, 2005, the project was not in compliance with the National Pollutant Discharge Elimination System permits, which required swales to catch runoff.

Senior Planner Wehrmeister stated she believed the February 15th deadline applied to those projects that had not been deemed complete.

Mayor Freitas stated the issue was still open and questionable.

Robert Briggs, Antioch resident, responding to Councilmember Conley's request to extend the masonry wall 100 feet stated he felt it would not be sufficient due to the location of the dumpsters. He further noted he would support the extension of the masonry wall for approximately 200 feet. He expressed concern for the ability of law enforcement to police the trail if access is provided from the project.

Mayor Freitas closed the public hearing.

In response to Councilmember Conley, Senior Planner Wehrmeister clarified the project had been in development for a couple of years and to meet the new regulations for National Pollutant Discharge Elimination System permits it would have created a major design change for the applicant. She stated it was her understanding that as long as the application was current and valid they would not need to redesign their plan.

Mayor Freitas reported that was not the view of the Regional Water Quality Control Board.

Mayor Freitas further stated Project Specific Condition #57 should include the condition of the road, upkeep of the buildings as well as trash and weed abatement.

City Attorney Galstan suggested the project specific condition include maintenance of the entire exterior of the shopping center as well as the paving of the parking lot to the approval of the development services director.

Mr. Rothbard indicated the above condition was acceptable.

Following discussion the City Council majority agreed that due to liability and safety issues, they support retaining project specific condition #72, denying trail access to the project.

RESOLUTION NO. 2005/20

On motion by Councilmember Conley, seconded by Councilmember Simonsen the City Council unanimously: 1) Introduced the ordinance by title only; 2) Introduced the ordinance to change the zoning of the project site to the Planned Development District, and 3) Adopted the resolution approving the Final Development, Tentative Map, and Use Permit and adopting of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the In-Shape Health Club and Commercial Center project. And with the following revisions:

Standard condition #21 revised to read:

#21. That a parking lot sweeping program be implemented that, at a minimum, provides for sweeping once per week.

Project specific condition #57 and #65 revised to read:

#57. That the project shall comply with the City landscape ordinance section 9-5.1001.1 dealing with landscaping of non-residential projects and including the maintenance of the entire exterior of the shopping center as well as the paving of the parking lot to the approval of the Development Services Director.

#65. That a six foot masonry wall shall be required where project boundaries abut residential development, with the height of the wall measured from the residential pad. Wrought iron or equivalent fencing shall be provided along the EBMUD easement. Adequate

vegetative screening shall be provided at all project boundaries that abut the East Bay MUD easement. The wall and fencing shall be subject to the approval of the City Engineer.

And the addition of project specific condition #73 to read:

#73. That delivery times shall be restricted to the hours of 7:00 A.M. - 10:00 P.M.

Councilmember Simonsen suggested a study session to review and update standard conditions.

COUNCIL REGULAR AGENDA

4. AFTER SCHOOL ISSUES AT DEER VALLEY PLAZA.....#1301-01

Chief of Police Moczulski presented the staff report dated February 15, 2005 recommending the City Council receive and file the report.

Chief Moczulski stated there would be a letter of intent from the City to the School District outlining the protocols or procedures needed to adequately deal with the issue. He noted they were aware of minimum days and when they occurred and would adjust the schedules of the Officers to coincide with those times.

Mary Peinado, representing Residents of Antioch for Improved Schools and Education (R.A.I.S.E.) voiced their support of the program.

Darnell Turner, Oakley resident, discussed the importance of making sure there was a strong law enforcement presence to focus on individuals who were not students. He cautioned the City to refrain from racial profiling and recommended diversionary activities as a positive outlet for the students. He suggested approaching businesses for funding of after-school programs and offered to assist the City with the development of a program.

Terry Ramus, Antioch resident, spoke in support of enhanced policing effort at Deer Valley Plaza, and discussed the importance for monitoring existing business areas.

Ken Lee, Antioch resident, suggested merchants form a Business Association free of City fees, allowing them to be proactive and regain control of their business center.

Councilmember Kalinowski thanked Chief Moczulski, Staff and School for the development of a comprehensive program.

Councilmember Conley thanked Mayor Freitas and Chief Moczulski for convening the committee and outlining the program.

Chief Moczulski announced he would be reporting back to Council on a quarterly basis.

Mayor Freitas thanked the School District, Police Department and staff for the development of the program. He stated the issue was not related to just Deer Valley High School and suggested the City refrain from building High Schools in commercial areas in the future. He noted the issue was not about profiling and the City would safeguard that from occurring. He clarified there was no fee for merchants to form a business association.

On motion by Councilmember Conley, seconded by Councilmember Simonsen the City Council unanimously received and filed the report.

Mayor Freitas declared a recess at 8:47 P.M. The meeting reconvened at 9:01 P.M. with all Councilmembers present.

5. DISCUSSION OF BASEBALL STADIUM PROJECT.....#1402-01

Councilmember Davis stated he had voted in favor of the Baseball Stadium at the inception, however, he felt the project had dramatically changed. Therefore, he was requesting the item be brought back to the City Council for reconsideration. He stated he could not support any more public monies being spent to fund a project in Pittsburg when there were significant needs within the City of Antioch. He suggested the funds be used as a grant for the Babe Ruth fields and to fund programs and services within the Police Department. He requested the item be agendized as an action item on the next City Council meeting agenda.

Detective William Dee, representing Antioch Police Officer's Association, read a letter from the Antioch Police Officer's Association president Tom Furman expressing concern regarding the City's funds being used to upgrade Los Medanos College campus with no tangible return for the citizens of Antioch. They urged the City Council to vote against the baseball park and send it to private investors.

Allen Payton and Manny Soliz, Antioch residents, stated they were in support of the project, although they felt using public monies was the wrong funding mechanism. They urged the City Council to seek private funding and spend public funds within Antioch.

Chief Moczulski insured the City Council and member of the community children in all of Antioch's Elementary Schools were being trained in Stranger Danger prevention measures. He clarified the Police Department has trained and provided materials to site administrators and staff in all elementary school.

Councilmember Conley stated the City Council has taken a vote and made an agreement. He noted he could not support reconsideration of the item due to the fact it would open up the City to liability and send the wrong message to everyone that does business with the City.

Councilmember Simonsen stated he had not seen a contract signed by the City with a non-profit organization. He noted the bid far exceeded the estimates therefore he felt they were in default. He supported reconsideration of the project noting he felt the RDA funds should be spent within the City of Antioch.

The City Council placed the item on the March 8, 2005 agenda for action.

6. URGENCY ORDINANCE APPLYING ZONING STANDARDS TO ADULT BOUTIQUES DURING AN INTERIM STUDY PERIOD.....#701-05

City Attorney Galstan presented the staff report dated February 16, 2005 recommending the City Council adopt the urgency ordinance.

Ken Lee clarified the issue was related to responsible adult retailing and it has been his experience that sole proprietors do not let problems occur.

Cindy Johnson, Partner and Co-owner of Smooches Adult Boutiques gave a brief description of their business plan and clarified that it would be a quality establishment.

Councilmember Simonsen discussed the importance of free enterprise and stated he could not support an urgency ordinance due to the fact the business was not in violation of any laws or City Ordinances.

ORDINANCE NO. 1040 C-S

On motion by Councilmember Conley, seconded by Councilmember Davis the City Council adopted the urgency ordinance. The motion carried by the following vote:

Ayes: Davis, Kalinowski, Conley, Freitas

Noes: Simonsen

7. STUDY SESSION OF MEDICAL MARIJUANA DISPENSARIES.....#701-05

City Attorney Galstan presented the staff report dated February 8, 2005 recommending the City Council provide direction to staff as to whether an ordinance should be drafted prohibiting medical marijuana dispensaries.

On motion by Councilmember Conley, seconded by Councilmember Davis the City Council unanimously directed staff to draft an ordinance prohibiting medical marijuana dispensaries.

PUBLIC COMMENTS - None

STAFF COMMUNICATIONS

City Manager Jakel announced all cities within Contra Costa County would be meeting on March 26, 2005 to discuss the Urban Limit Line. Mayor Freitas stated he would not be able to attend due to the fact that he would be out of town and encouraged all Councilmembers to attend.

COUNCIL COMMUNICATIONS

Councilmember Davis announced applications for the Chichibu Sister City program would be available after March 1, 2005 in the City Clerks Office.

City Manager Jakel announced the Magnet School location was tentatively scheduled for the March 8, 2005 City Council meeting.

Councilmember Simonsen expressed his appreciation to the City Council and Councilmember Kalinowski for working in the best interest of the City while he was on vacation.

Mayor Freitas announced the City Council would be holding regularly scheduled meetings on March 8 and 27, 2005 and a Study Session on March 15, 2005.

With no further business, Mayor Freitas adjourned the meeting at 9:59 P.M. to the next regular Council meeting on March 8, 2005.

Respectfully submitted:

L. JOLENE MARTIN, CMC, City Clerk

Approved:

DONALD P. FREITAS, Mayor

Attest:

L. JOLENE MARTIN, CMC, City Clerk