

**ANTIOCH CITY COUNCIL
ANTIOCH DEVELOPMENT AGENCY**

Regular Meeting
7:00 P.M.

December 19, 2006
Council Chambers

5:00 P.M. - CLOSED SESSION

1. **CONFERENCE WITH LEGAL COUNSEL** – Anticipated Litigation – Initiation of litigation pursuant to subdivision (c) of Government Code §54956.9 (3 cases)
2. **CONFERENCE WITH LABOR NEGOTIATOR** – Employee Organization: APOA (Antioch Police Officers Association). This Closed Session is authorized by Government Code §54957.6
3. **PUBLIC EMPLOYEE PERFORMANCE EVALUATION.** Title: City Manager. This Closed Session is authorized by Government Code §54957.

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

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

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

PLEDGE OF ALLEGIANCE

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

PROCLAMATIONS

Honoring Frank J. Ballesteros

On motion by Councilmember Davis, seconded by Councilmember Simonsen, the Council unanimously approved the proclamation

Mayor Freitas presented the proclamation proclaiming December 19, 2006 as Frank J. Ballesteros Day to Frank J. Ballesteros who thanked the City Council, the public, his family and cast for their support and recognition.

Mayor Freitas thanked Mr. Ballesteros for bringing art into the community and encouraged the community to attend his plays.

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Wayne Steffen, representing the City Park Playground Commission, announced “*build week*” for the playground would be May 16-20, 2007. He provided contact information for anyone wishing to volunteer or make donations.

Mayor Freitas requested City Manager Jakel post contact information for the City Park playground project in the water bill insert.

Devi Lanphere, representing the Antioch Chamber of Commerce, announced the Business, Citizen and Youth of the Year would be recognized at the Chamber's Inaugural Gala on January 19, 2007 at the Lone Tree Event Center. Contact info was given for anyone wishing to attend.

ANNOUNCEMENTS OF BOARDS AND COMMISSION OPENINGS

Mayor Freitas announced the following Commission opening for the City of Antioch:

- Three expiring terms on the Board of Administrative Appeals
- Two unexpired terms on the Police Crime Prevention Commission

Contact information was given for those interested in applying.

PUBLIC COMMENTS

Phillip Arndt, Comcast Government Affairs Director, gave a brief update regarding the enhanced cable system and roll out plans for Antioch.

Councilmember Kalinowski requested Mr. Arndt provide copies of the roll out plans to staff and ensure Comcast's customer service department provides accurate information.

Emil Stein, Antioch resident, congratulated Councilmembers Moore, Davis and Simonsen on the election results.

Ken Lee, Antioch resident, reported he felt the City had raised the bar by addressing various neighborhood improvement issues.

COUNCIL RESPONSE TO PUBLIC COMMENTS - None

1. COUNCIL CONSENT CALENDAR

- A. APPROVAL OF COUNCIL MINUTES FOR NOVEMBER 14 AND 28, 2006 #301-02**
- B. APPROVAL OF COUNCIL WARRANTS #401-01**
- C. APPROVAL OF TREASURER'S REPORT FOR NOVEMBER 2006 #401-02**
- D. REJECTION OF CLAIMS #704-07 - *Denied***
 - 1. Rae M. Baca, #06/07-1693 (vehicle damage)**
 - 2. James B. Richards, #06/07-1683 (vehicle damage)**
 - 3. Renee J. Mansapit, #06/07-1703 (pothole)**

- E. LEGISLATION AND ADVOCACY #701-04**
- F. RESOLUTION NO. 2006/128 ACCEPTING COMPLETED IMPROVEMENTS AND APPROVING INDEMNIFICATION AGREEMENT FOR MIRA VISTA HILLS SUBDIVISION NO. 16, TRACT NO. 6921 (ALBERT D. SEENO CONSTRUCTION CO.) PW 365-16 #802-02**
- G. RESOLUTION NO. 2006/129 APPROPRIATING ADDITIONAL EXPENDITURES FOR ENCUMBRANCES OUTSTANDING AS OF JUNE 30, 2006, TO THE 2006/07 FISCAL YEAR BUDGET #410-02**
- H. RESOLUTION NO. 2006/130 APPROVING THE FINAL MAP AND IMPROVEMENT PLANS FOR NELSON RANCH, UNIT 3 SUBDIVISION, (STANDARD PACIFIC HOUSING), TRACT NO. 8851 AND ANNEXING TO THE CITY WIDE LIGHTING AND LANDSCAPING DISTRICT 1, ZONE 1, (PW 547-3) #802-02**
- I. AMEND THE FY 2006-2007 COMMUNITY DEVELOPMENT DEPARTMENT /ENGINEERING DIVISION BUDGET BY TRANSFERRING FUNDS IN THE AMOUNT OF \$20,000 FROM REGULAR SALARIES (1005150 61010) BUDGET TO THE PART-TIME HELP (1005150 61020) BUDGET #410-01**
- J. SETTLEMENT AGREEMENT FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2006-0512, OLD ANTIOCH LANDFILL, CONTRA COSTA COUNTY (MARKLEY CREEK) #704-01**

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

Item A – On motion by Councilmember Davis, seconded by Councilmember Simonsen the City Council approved item A.

Ayes: Freitas, Kalinowski, Davis, Simonsen

Abstain: Moore

Item J – On motion by Councilmember Davis, seconded by Councilmember Simonsen the City Council approved item J.

Ayes: Freitas, Kalinowski, Davis, Simonsen

Abstain: Moore

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

6. AGENCY CONSENT CALENDAR

A. APPROVAL OF AGENCY WARRANTS #401-01

B. RESOLUTION NO. ADA 416 - APPROPRIATING ADDITIONAL EXPENDITURES FOR ENCUMBRANCES OUTSTANDING AS OF JUNE 30, 2006, TO THE 2006/07 FISCAL YEAR BUDGET #410-02

On motion by Agencymember Kalinowski, seconded by Agencymember Moore, the Antioch Development Agency unanimously approved the Agency Consent Calendar.

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

5. RESOLUTION APPROVING PARTICIPATION IN PROJECT WITH CONTRA COSTA WATER DISTRICT IN THE RANDALL-BOLD pH SUPPRESSION PROJECT #1202-01

Pat Scott presented the staff report dated December 11, 2006 recommending the City Council adopt the resolution.

In response to Councilmember Simonsen, Water Treatment Plant Superintendent Darone reviewed the options and fiscal impacts related to the City's participation in the project.

Jerry Brown, Contra Costa Water District Director of Planning, stated the Water District was taking a proactive step to meeting future regulations related to bromate.

Mayor Freitas stated he could not support the funding mechanism as presented; adding the Water District's contract states they are to provide "the communities" of Contra Costa County with the highest quality water possible, and those costs should be spread equally to all the communities through rates.

Mr. Darone clarified this project was related to regulatory compliance, therefore under the contract, participants are to contribute individually.

Mayor Freitas stated he did not agree with the methodology and suggested the City Council adopt option #4. In addition, he requested Council review the contract to determine if Mr. Darone's interpretation was accurate and if so, the City Council should consider amending the contract.

Councilmember Simonsen stated he would not support participation in the project noting he would like to review the agreement with Randall-Bold and the minutes of the meetings when the agreement was approved.

Councilmember Davis agreed that significant issues had been raised regarding the agreement; therefore he would like to postpone a decision based on further review of the contract.

On motion by Councilmember Kalinowski, seconded by Councilmember Davis, this item was continued a future date pending staff review and a report back to the City Council.

PUBLIC HEARINGS

2. THE RIVERTOWN PRESERVATION SOCIETY AND SUSAN WELCH ARE APPEALING THE PLANNING COMMISSION'S DECISION APPROVING A USE PERMIT TO OPERATE A YOUTH CENTER FOR UP TO 25 YOUTHS AGES 13-18 LOCATED AT 223 WEST TENTH STREET (IMPACT RESOURCE AND EDUCATION CENTER) (APN 067-091-036). UP-06-16 #202-10

Assistant Planner Gentry presented the staff report dated December 15, 2006 recommending the City Council uphold the appeals and deny the use permit.

PROPONANTS

Don Bright, President and speaking on behalf of the Rivertown Preservation Society, announced the Rivertown Preservation Society Board had voted unanimously to support the appeal. He expressed their concern regarding the elimination of another single family home in the Rivertown District, adding they were in support of the facility, but felt it should be located in a more appropriate area. He then submitted into the record a letter of protest against the project from the property owner immediately behind the proposed site.

Susan Welch, Antioch resident, stated she filed the appeal to represent the neighbors of the area and expressed her concern regarding the negative impacts this project would have on nearby property owners. She noted they felt the project was a good idea and encouraged the applicant to find an alternative location.

Deborah Triest, Antioch resident, expressed concern regarding the numerous accidents that had occurred in the area of the proposed youth center and suggested a traffic study be conducted prior to approval. She questioned who would monitor students being picked up and dropped off, adding the neighborhood residents were concerned home owners dedicated to the preservation of the Rivertown area neighborhood and encouraged the City Council to deny the proposal.

Mary Dodson, Antioch resident, questioned the qualifications of the instructors, their ability to properly monitor the youth attending the facility and if the center's size would be adequate.

Adeline Vanderlinden, Antioch resident, provided written comment in support of the appeal noting she did not feel this was an adequate location for the proposed facility.

Brett Klement, Antioch resident, expressed his concern regarding traffic in the area and an adjacent building currently being used for Alcoholic's Anonymous meetings. He

questioned whether the facility would be large enough, stating he felt the documentation provided by the applicant was contradictory and ambiguous.

Katie Cook, Antioch resident, read a letter in support of the appeal from Dr. John Durkee, owner of several properties in the area of the proposed youth center.

Sue Olvera and Lauren Jeffries, Antioch residents, stated they felt this was a good project however traffic in the area would make it an unsafe location for a youth facility.

Dennis Bastian, speaking on behalf of his daughter Erin Bastian, expressed concern the youth attending the facility would be able to look directly into her house and negatively impact her quality of life. He voiced his support for the project in a more appropriate location.

Angela and Jake Jimenez provided written comment in support of the appeal noting it was a good project however they felt it should be in a business location.

OPPONANT

Florene Warren, Antioch resident, stated she had raised foster children and her goal was to prepare the youth for the transition into adulthood by providing them with life skills. She clarified there would be 6 children at a time using the facility, noting she had no intention of negatively impacting the neighbors and she would not open the center without the community's supports.

REBUTTAL

Mr. Bright indicated he did not wish to exercise his right for a rebuttal.

Councilmember Simonsen stated he had reviewed the calls for service in the area, which confirmed the accidents in the area. He stated he felt this was a good program, however it was the wrong location for a youth center.

Councilmember Kalinowski stated the facility was important for the youth in the community, however this was not a suitable location, noting he would support the City working with Ms. Warren to find an alternative rental location for the program.

Councilmember Davis stated he was also in support of Ms. Warren's attempt to provide the youth with a facility, however he felt this was not an appropriate location. He offered to assist Ms. Warren in finding an alternative location.

Councilmember Moore thanked everyone who spoke in support of the youth and commended Ms. Warren for developing a program for the youth. He agreed this location was not suitable and offered to assist Ms. Warren in finding an alternative location.

Councilmember Davis reported he has requested staff provide a report in January as to why 10th Street needs to remain being used as a truck route.

Councilmember Simonsen suggested in early 2007, the City Council consider defining permitted uses in these types of locations.

RESOLUTION NO. 2006/131

On motion by Councilmember Simonsen, seconded by Councilmember Davis the City Council unanimously upheld the appeals by overturning the Planning Commission's decisions and denied UP-06-16.

Mayor Freitas declared a recess at 8:46 P.M. The meeting reconvened at 8:54 P.M. with all Councilmembers present.

COUNCIL REGULAR AGENDA

3. MOBILE HOME PARK ISSUES; AGREEMENT WITH VISTA DIABLO MOBILE HOME PARK OR MOBILE HOME RENT CONTROL ORDINANCE #802-01

City Attorney Nerland presented the staff report dated December 15, 2006 recommending the City Council provide direction on an agreement regarding Vista Diablo Mobile Home Park and/or provide direction on a Mobile Home Rent Control Ordinance.

Lola Buck, President of the Vista Diablo Estates Homeowners Association, on behalf of Irma Casteen, Archie Gore, Al Ives, Marylon Stockdale, Freda Hargrove, Ann Roberts, Donna Harpfam and Pricilla Harrison, residents of Vista Diablo Mobile Home Park expressed concern regarding the lease agreement policies of Sierra Corporate Management, Inc., who coerce residents on fixed incomes into 20-25 year leases with automatic 6% annual increases, resulting in rents that are unaffordable and homes that are unmarketable. They requested the City Council draft a rent control ordinance and prevent the conversion of the park to an all age development. Additionally, the residents thanked the City Council and staff for their efforts to resolve the issues.

Abe Arrigotti, President of Sierra Corporate Management, stated a concerted effort had been made to prevent tonight's potential action, however they could not meet the final terms as proposed. He noted rent control would not result in immediate or short-term benefit for the mobile home residents and the new buyer must accept long-term leases. He stated they have adjusted their rents based on market factors, fully disclosed guidelines for living in their community and intend on noticing the tenants of their plans to convert the park to an all age community if rent control is passed. He urged the City Council to consider all options noting government regulation of prices within any business is not a solution.

Mayor Freitas expressed his concern regarding the business practices of Sierra Corporate Management and reported the management company had failed to agree to reasonable requests made by the city.

In response to Mayor Freitas' questions, the consensus of the Vista Diablo residents in attendance of this meeting indicated they would support rent control.

Councilmember Simonsen agreed with Mayor Freitas and provided the City Council with information from the City of Pittsburg on how they addressed these issues. He suggested the City look at options from other communities to avoid rent control ordinances.

Councilmember Kalinowski reported the Antioch Development Agency was a party to the rent gouging through rent subsidizes. He suggested the City investigate the possibility of elder abuse, determine whether or not there were legal grounds to pursue rent control and consider an investigation into some of the ongoing business practices of Sierra Corporate Management.

Councilmember Moore stated he was committed to protecting the residents.

Councilmember Davis expressed concern the residents had been coerced into signing long-term leases, which he felt was wrong.

Following discussion, it was the consensus of the City Council to move forward with the mobile home rent control ordinance and provided the following direction:

- City Council's intent was for this ordinance to apply to senior mobile home parks.
- Mobile Home Park Rent Review Board – directed staff to return with more information, particularly on the costs and how they operate
- Annual Increases of rent to be tied to Sacramento/Stockton/Central Valley area C.P.I.
- Directed staff to return with more information regarding the procedure for petitioning for a special rent increase beyond the allowed automatic increase
- Directed staff to return with more information regarding the "Administrative Fee"
- Decisions of the Board could be appealed to the City Council for a decision
- City Attorney advise and make a recommendation to the City Council on a scope of work related to issues on fair housing laws and financial elder abuse.

Mr. Ives clarified the residents could "get out" of their leases with a 60 day notice accompanied with a new buyer; state law requires they must offer a 12 month or less lease or a lease on agreeable terms of more than one year.

Mayor Freitas declared a recess at 10:20 P.M. The meeting reconvened at 10:34 P.M. with all Councilmembers present with the exception of Councilmember Simonsen who returned at 10:35 P.M.

4. UPDATE ON THE PROVISION OF INFRASTRUCTURE AND UTILITIES TO THE MAGNET SCHOOL SITE AND CONSIDERATION OF DEL WEBB PULTE/WILLIAMSON AND KAISER DEVELOPMENT AGREEMENT (SAND CREEK FOCUS AREA) MODIFICATIONS #1401-02

Community Development Deputy Director Carniglia presented the staff report dated December 15, 2006, recommending the City Council receive and provide staff direction.

Michael Monaldo, representing Kaiser Permanente, thanked City staff and Mayor Freitas for their assistance in resolving the issues and stated they were in agreement with the staff report.

In response to Mayor Freitas, Mr. Monaldo clarified the administrative amendment would not be signed until and unless the temporary easement had been executed by the Antioch Unified School District.

In response to Councilmember Simonsen, Community Development Deputy Director Carniglia clarified the effective date of the development agreement was September 1994.

Councilmember Kalinowski stated he was in support of the temporary easement and continued negotiation between Pulte and Kaiser on the remaining issues. He suggested once the easement issue was finalized the parties involved, give staff a 30 days cooling off period to work on other issues.

On behalf of the community, Mayor Freitas thanked Kaiser Permanente.

Councilmember Kalinowski announced he had received a work related emergency and excused himself from the dais at 10:44 P.M.

Mike Serpa, Vice President, Del Webb thanked staff for their assistance in resolving the issues. He noted their support and would confirm by letter the easements would be available for the temporary easements for the magnet schools. In addition, he noted they may be able to accommodate the timelines.

Dr. Sims, on behalf of the Antioch Unified school District, thanked the City Council, staff, Pulte/Del Webb and Kaiser for their support and noted the School District was committed to making this a model school insuring the highest quality education for the students.

Councilmember Simonsen thanked all parties involved for working cooperatively to achieve a new high school in Antioch.

Walter Ruelig thanked the City Council and staff for their assistance with securing the third high school site.

Mayor Freitas thanked everyone involved who came together to help resolve the issues to bring the Magnet School to the community.

On motion by Councilmember Simonsen, seconded by Councilmember Davis, the City Council members present unanimously voted:

- To provide the power and authority to the Community Development Director to do an administrative amendment finding Kaiser in compliance with their Development Agreement
- Kaiser would be providing a temporary easement to AUSD
- Prior to the amendment being executed by the Director of Community Development, the easement would have to be finalized and the AUSD would have it recorded
- Pulte/Del Webb/Williamson would provide the temporary easement for water/sewer/storm drain and other utilities by target date January 5, 2007
- Kaiser/Pulte/Del Webb/Williamson – try to continue to meet in good faith to resolve outstanding issues, contacting staff after February 1, 2007
- Report back to the City Council on January 9, 2007 to assure the temporary easements have been executed and were being processed

The motion carried the following vote:

Ayes: Davis, Simonsen, Moore, Freitas

Absent: Kalinowski

PUBLIC COMMENTS - None

STAFF COMMUNICATIONS

City Manager Jakel announced City Hall will be closed December 25 and 26, 2006.

COUNCIL COMMUNICATIONS

Councilmember Simonsen reported he attended his first ABAG session last week.

Councilmember Moore wished the community a Merry Christmas, Happy New Year and Happy Kwanzaa.

ADJOURNMENT

With no further business, Mayor Freitas adjourned the meeting at 10:58 P.M. to the next regular Council meeting of January 9, 2007.

Respectfully Submitted,

L. Jolene Martin, CMC, City Clerk