

**ANTIOCH CITY COUNCIL
ANTIOCH DEVELOPMENT AGENCY**

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

**November 22, 2005
Council Chambers**

6:30 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).

Mayor Freitas called the meeting to order at 7:18 P.M., and City Clerk Martin called the roll.

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

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

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Devi Lanphere reported the Chamber of Commerce would be accepting nominations for Citizen and Business of the Year until December 10, 2005. She provided contact information for anyone wishing to receive additional information.

Barbara Sobalvarro, speaking on behalf of the Friends of Animal Services, reported the Black Cat Ball had been a very successful event and thanked Mayor Freitas and Councilmember Conley for their support. She further announced the success of the Black Cat Ball had enabled the Friends of Animal Services to host the Thanksgiving Turkey Feast and Holiday Tree Trimming on November 26, 2005. In addition they would be paying the entire adoptions costs (except the \$15.00 adoption fee), for every animal adopted throughout December. She provided contact information and thanked the City Council for their support.

PUBLIC COMMENTS

Emil Stein, Antioch resident, reported lights were continuing to shine into residences adjacent to the Antioch Auto Dealerships and requested the City Council address this issue and have the City Attorney define light shine versus glow.

Mayor Freitas requested the City Councils approval to prepare a proclamation honoring Linda Horn, Chief Executive Officer of Sutter Delta Hospital for her years of service in the community.

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

Councilmember Kalinowski requested the City Councils approval to send a proclamation to Warren Rupf for his 40th Anniversary with the Contra Costa Sheriffs Office.

On motion by Councilmember Kalinowski, seconded by Councilmember Simonsen the City Council approved the proclamation.

1. COUNCIL CONSENT CALENDAR

- A. APPROVAL OF COUNCIL MINUTES FOR OCTOBER 25, 2005..... #301-02
- B. APPROVAL OF COUNCIL WARRANTS..... #401-02
- C. APPROVAL OF TREASURER'S REPORT FOR OCTOBER 2005..... #401-02
- D. REJECTION OF CLAIM #704-07
 - 1. Uriel Engle, #05/06-1599 (vehicle damage)
- E. LEGISLATION AND ADVOCACY #701-04
- F. RESOLUTION NO. 2005/124 APPROPRIATING ADDITIONAL EXPENDITURES TO THE 2005/06 FISCAL YEAR BUDGET #410-02
- G. RESOLUTION NO. 2005/125 and 2005/126 APPROVING FINAL MAP AND IMPROVEMENT PLANS FOR SAND CREEK RANCH SUBDIVISION, UNIT 8, (SHEA HOMES LIMITED PARTNERSHIP), TRACT NO. 8951 AND ANNEXING TO THE CITY WIDE LIGHTING AND LANDSCAPING DISTRICT 10 AND RESOLUTION APPROVING GRANT DEED (PW 639-8)..... #802-02
- H. RESOLUTION NO. 2005/127 ADOPTING THE EAST CONTRA COSTA COUNTY BIKEWAY PLAN 2005 UPDATE..... #1402-02
- I. AUTHORIZATION TO ADVERTISE FOR BIDS FOR THE LANDFILL MITIGATION LANDSCAPING (PW 637)..... #1402-03
- J. AUTHORIZATION TO ADVERTISE FOR BIDS FOR 2005/06 TRAFFIC SIGNAL INSTALLATION AT FOUR LOCATIONS (PW. 636-4)..... #1104-02
- K. RESOLUTION NO. 2005/128 ACCEPTING GRANT FROM STATE OF CALIFORNIA DEPARTMENT OF BOATING AND WATERWAYS FOR REMOVAL OF ABANDONED VESSELS WITHIN OUR JURISDICTION..... #203-02
- L. RESOLUTION NO. 2005/129 AUTHORIZING ADJUSTMENT TO POLICE CHIEF'S SALARY RANGE #508-01

M. BROWN ACT COMPLAINT REGARDING APPROVAL OF DEVELOPMENT AGREEMENT FOR DEL WEBB PROJECT..... #701-04

N. AWARD OF CONTRACT FOR POLICE DEPARTMENT EVIDENCE SHELVING #1301-01

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

Item A - Councilmember Simonsen requested a typographical error on page 1, be corrected as follows: Change the word "Closes" to "Closed" in the 4th paragraph.

On motion by Councilmember Simonsen, seconded by Councilmember Conley the City Council unanimously approved item A as amended.

Item M - Mayor Freitas read into the record a letter from Ralph Hernandez stating he did not agree with the City Council taking no action on the matter and requested a separate vote on the item.

On motion by Councilmember Conley, seconded by Councilmember Simonsen the City Council determined to take no action on Item M. The motion carried by the following vote:

Ayes: Freitas, Conley, Simonsen

Noes: Kalinowski

PUBLIC HEARINGS

2. THE CITY OF ANTIOCH REQUESTS APPROVAL OF CHANGES TO THE ZONING ORDINANCE TO BRING IT INTO COMPLIANCE WITH THE GENERAL PLAN ADOPTED IN 2003. IN ADDITION, THE CORRESPONDING ZONING MAP WILL BE UPDATED TO BE CONSISTENT WITH THE GENERAL PLAN MAP PURSUANT TO STATE LAW (Z-04-02) #202-05

Senior Planner Oshinsky presented the staff report dated November 22, 2005 recommending the City Council take the following action: A) Introduce the ordinance by title only; B) Amend various Sections of Title 9, Chapter 5, of the Antioch Municipal Code, dealing with an update of the Zoning Ordinance. In addition to the staff report recommendations she requested the City Council consider including Boats in the Vehicle/equipment sales & rental category in the Table of Land Use Regulations.

Mayor Freitas opened the public hearing.

Frank Lozano representing Inland Marine stated staff had addressed his concerns and requested an update regarding the new boat launch.

City Engineer/Community Development Director Brandt reported the earliest the boat launch would be completed was the summer of 2006. The launch would be located at the marina.

Joe Krkoska representing Dow Chemical, stated they were proposing the northerly half of the land to the north of the railroad track be considered OS (open space) and the southern half of the northerly half be considered M-1 (light industrial) or PBC (planned business park). He stated the consultants had indicated rezoning of the property to open space would diminish the value of the property.

Mayor Freitas stated he disagreed with the consultant noting property designated M1 would not be used for mitigation purposes, rather property designated as open space could be used for mitigation purposes. He added this item was continued for a month to enable the various parties to discuss the issues with the City Attorney, which did not take place; therefore he is not supportive of Dow's request.

Mr. Krkoska stated there was a misunderstanding and he thought the continuance was to clarify the position from the consultants.

Mayor Freitas closed the public hearing.

On motion by Councilmember Conley, seconded by Councilmember Simonsen the City Council members present unanimously: A) Introduced the ordinance by title only; B) Introduced the ordinance amending various Sections of Title 9, Chapter 5, of the Antioch Municipal Code, dealing with an update of the Zoning Ordinance text and maps with the following changes:

- Area north of the railroad track of the Dow property designated open space
- Area south of the railroad track on the Dow property designated M-1 (light industrial)
- Boats shall be included in the Vehicle/equipment sales & rental category in the Table of Land Use Regulations

3. APPROVAL OF GENERAL PLAN MAP AMENDMENT TO COMPLY WITH EXISTING PHYSICAL LAND USES AND THE GENERAL PLAN TEXT THROUGHOUT THE CITY (GP-05-03) #202-04

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

RESOLUTION NO. 2005/130

On motion by Councilmember Conley, seconded by Councilmember Simonsen the Council members present unanimously approved the general plan changes and addendum with the following changes:

- Area north of the railroad track of the Dow property designated open space
- Area south of the railroad track on the Dow property designated M-1 (light industrial)

4. RESOLUTION APPROVING A MITIGATED NEGATIVE DECLARATION FOR EXPANSION OF THE CITY'S WATER TREATMENT PLANT AND CONSTRUCTION OF A NEW SLUDGE HANDLING FACILITY LOCATED AT 401 PUTNAM STREET (#1202-01)

.....(PW 551-4)

Acting Deputy Director of Community Development Wehrmeister presented the staff report dated November 11, 2005 recommending the City Council conduct the public hearing, receive comments and adopt the mitigated negative declaration.

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

RESOLUTION NO. 2005/131

On motion by Councilmember Conley, seconded by Councilmember Kalinowski, the City Council members present unanimously approved the resolution.

Mayor Freitas adjourned to the Antioch Development Agency and City Council with all Agency members/Councilmembers present with the exception of Agency member/Councilmember Davis who was on an excused absence.

COUNCIL/AGENCY PUBLIC HEARING

5. DISPOSITION, DEVELOPMENT AND LOAN AGREEMENT FOR MT. DIABLO HABITAT FOR HUMANITY-ANTIOCH DEVELOPMENT AGENCY PROJECT AREA (5TH AND K STREET)..... #902-06

CDBG and Housing Consultant Kennedy presented the staff report dated November 17, 2005 recommending the City Council: A) Adopt the resolution of the City Council approving a Disposition, Development, and Loan Agreement by and between the Antioch Development Agency and Mt. Diablo Habitat for Humanity for the development of four single-family homes located at 5th and "K" Streets; B) Adopt the resolution of the Antioch Development Agency approving a Disposition, Development, and Loan Agreement by and between the Antioch Development Agency and Mt. Diablo Habitat for Humanity for the development of four single-family homes located at 5th and "K" Streets.

Mayor/Chairperson Freitas opened the public hearing.

Judy Bryan, Executive Director of the Habitat for Humanity, clarified there was an agreement stipulating homeowners who gave 500 hours of sweat equity were not charged interest. She added the homeowners make mortgage payments that include property tax, homeowners insurance and a \$25.00 maintenance fee for the easement. In addition, she noted, there had been no foreclosures of property within the Bay Area. She thanked the City Council for their consideration of the project.

Mayor Freitas closed the public hearing.

RESOLUTION NO. 2005/132
RESOLUTION NO. ADA-406

On motion by Councilmember/Agencymember Conley, seconded by Councilmember/Agencymember Simonsen, the City Council and Antioch Development Agency adopted the resolutions approving a Disposition, Development, and Loan Agreement by and between the Antioch Development Agency and Mt. Diablo Habitat for Humanity for the development of four single-family homes located at 5th and "K" Streets.

Mayor/Chairperson Freitas adjourned to the City Council.

COUNCIL REGULAR AGENDA

- 6. BLACK DIAMOND RANCH / DISCOVERY BUILDERS, INC. REQUESTS APPROVAL OF AN AMENDMENT OF A PREVIOUSLY APPROVED TENTATIVE MAP FOR 286 SINGLE FAMILY LOTS. THE PROPOSAL IS TO AMEND LANDS CURRENTLY DESIGNATED "OPEN SPACE" TO THE DESIGNATION OF "REMAINDER" LOCATED ON THE WEST SIDE OF SOMERSVILLE ROAD, WEST OF SOMERSVILLE RD. / JAMES DONLON RD (PW-512)..... #802-02**

Acting Community Development Deputy Director Wehrmeister presented the staff report dated November 17, 2005, with a recommendation from the Planning Commission for the City Council to deny the requested map amendment.

Council approved the following resolution, which Acting Community Development Deputy Director Wehrmeister presented to the City Council at the meeting.

RESOLUTION NO. 2005/133

On motion by Councilmember Kalinowski, seconded by Councilmember Simonsen the City Council approved the resolution as presented. The motion carried by the following vote:

Ayes: Kalinowski, Conley, Simonsen Noes: Freitas

Mayor Freitas declared a recess at 8:12 P.M. The meeting reconvened at 8:23 P.M. with all Councilmembers present with the exception of Councilmember Davis who was excused.

- 7. PRESENTATION ON PROPOSED LOCATION OF THE E-BART LOCATED AT NEROLY AND EMPIRE AVENUE SITE #1107-03**

Deputy Director of Community Development Deputy Director Carniglia presented the staff report dated November 15, 2005 recommending that the City Council receive the presentation.

Ellen Smith, BART and Trent Lethco, ARUP gave a brief overhead presentation on the history, timeline and details for the proposed E-BART station and site.

Councilmember Simonsen requested the power point presentation be made available to city staff for the City Council. He expressed concern the MTC policy would impede Council efforts to improve the jobs/housing ratio. He noted the parcel division for the realignment of Slatten Ranch Road is a concern as well as freeway access to the area.

Mayor Freitas expressed concern Neroly Road was only envisioned as a two-lane road and suggested it be a minimum of 4 lanes with right-of-way purchased for 6 lanes.

Councilmember Conley reiterated the commercial development was important and the parking area and access should be equally shared between the jurisdictions involved.

Mayor Freitas clarified that access would be provided from each jurisdiction. He noted the station could be considered positive for commercial and retail development.

Community Development Deputy Director Carniglia clarified the area in Antioch was Nunn property.

Mayor Freitas clarified that during the rider ship development process a combination of land use and access would be brought forward for consideration. He added the city's would be receiving approximately \$400k and choosing the consultant team for the stationary plan.

Devi Lanphere, Antioch Chamber of Commerce CEO, complimented the cities for working together on this project. She stated they were in favor of the project moving forward and expressed concern regarding the following:

- Land use decisions without involving area stakeholders (business community, fairground board, state of California, property owners)
- General planning and zoning referred to in the jobs to housing ratio
- Policies adopted by BART and the MTC for new stations
- MOU most onus on cities,
- Address multilevel parking and grade level crossing issues
- Outreach to the community

Terry Ramus expressed concern that it had been difficult to get information and facts on the eBART proposal. He questioned what EPPAC was and suggested meetings, agendas and background information be posted on the City's website and held locally in an open forum. He suggested a citywide study session to update the community on the process.

Ms. Smith clarified EPPAC is the eBART Partnership Policy Advisory Committee that holds meetings the second Thursday of the month in Antioch at the Tri-Delta building at 8:00 P.M. She noted the City would be doing their own rider ship development plan and would be working on the appropriate outreach within the city as the process moves forward. She provided contact

information for anyone wishing to receive additional information. She explained two public hearing meetings had been held locally in July as they initiated the environmental study.

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

Councilmember Conley recused himself from item #8 and left the Chamber, due to potential conflict of interest.

8. CONSIDERATION OF INCREASING CITY TREASURER'S HOURS AND COMPENSATION
..... **#101-02**

City Treasurer Conley presented the staff report dated November 16, 2005 recommending the City Council direct staff adopt a resolution at a future meeting should the increase in hours be approved.

Councilmember Kalinowski suggested this item be continued until the City has hired a new Finance Director and reorganization has occurred.

Councilmember Simonsen stated he did not support continuing this item. He felt as an elected position the treasurer's pay, which was equal to each council member's stipend, was fair.

Mayor Freitas stated the Treasurer's position was a "watchdog position" elected by the public and independence should be maintained. He noted he could support option#1 for 20 hours per week, a salary increase and review in 1 year.

City Treasurer Conley clarified all her campaign literature indicated she wanted the position to be one of oversight and full-time, which the voters supported.

This item died for lack of a majority. No action was taken.

Councilmember Conley returned to the dais.

Mayor Freitas adjourned to the Antioch Development Agency with all Agency Members present with the exception of Councilmember Davis who was on an excused absence.

9. AGENCY CONSENT CALENDAR

A. APPROVAL OF AGENCY WARRANTS..... #401-02

**B. RESOLUTION NO. ADA-407 APPROPRIATING ADDITIONAL EXPENDITURES TO THE
2005/06 FISCAL YEAR BUDGET #410-02**

On motion by Agency member Conley, seconded by Agency member Simonsen the Agency members present unanimously approved the Agency Consent Calendar.

Chairperson Freitas adjourned to the Antioch City Council.

PUBLIC COMMENTS - None

STAFF COMMUNICATIONS

City Manager Jakel reminded the public the final City Council meeting for the year would be held on December 13, 2005.

COUNCIL COMMUNICATIONS

Councilmember Conley suggested the City consider a "no alcohol" policy, for functions attended by the City Council and funded by the City. He further suggested contacting the City's insurance company to determine the City's liability and what can be done to enforce the no drinking policy.

City Manager Jakel reported the City had an administrative policy for city employees regarding alcohol use and driving. He will make that information available to the City Council in January.

Mayor Freitas wished everyone a healthy and safe Thanksgiving. On behalf of the community he thanked City staff for doing an outstanding job and recognized members of the Armed Services and their families.

With no further business, Mayor Freitas adjourned the meeting at 9:15 P.M. to the next regular Council meeting on December 13, 2005.

Respectfully Submitted

L. JOLENE MARTIN, CMC

Approved:

DONALD P. FREITAS, Mayor

Attest:

L. JOLENE MARTIN, CMC