

**ANTIOCH CITY COUNCIL
ANTIOCH DEVELOPMENT AGENCY**

Regular Meeting
7:00 P.M.

Council Chambers
March 25, 2008

6:00 P.M. - CLOSED SESSION

1. CONFERENCE WITH LABOR NEGOTIATOR . Agency Designated Representative: Human Resources Director. Employee Organization: APSMA (Antioch Police Sworn Management Association). This Closed Session is authorized by Government Code §54957.6.

2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION . This Closed Session is authorized by California Government Code §54956.9(a). Administrative Civil Liability Complaint No. R5-2006-0512 issued by the California Regional Water Quality Control Board . Central Valley Region to the City of Antioch and Somersville-Gentry, Inc.; SPPI-Somersville, Inc. et al. v. TRC Companies, Inc. et al, Case No. C04-2648 SI, United States District Court, Northern District of California.

3 CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION . This Closed Session is authorized by California Government Code §54956.9(a): Whiteside Construction Corporation v. J.K. Merz Construction, Inc., Antioch Public Golf Corporation and the City of Antioch, et al.; Davidson Plastering, Inc. v. J.K. Merz Construction, Inc., Contra Costa Superior Court, Case No. Consolidated C06-00730, City of Antioch, Travelers Casualty and Surety Company of America, et al.; J.K. Merz Construction, Inc., v. First Republic Bank, et al., San Francisco Superior Court, Case No. CGC06-454761

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

PLEDGE OF ALLEGIANCE

Councilmember Davis led the Council and audience in the Pledge of Allegiance.

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

RECOGNITION FROM ANTIOCH POLICE DEPARTMENT TO:

Police Activities League (PAL)
Antioch Maintenance Service Workers

Captain Cantando gave a brief update of the Police Activities League (PAL) programs schedule for the 2008 Calendar year, noting additional information was available on the City of Antioch website. He discussed a payroll deduction program for City employees to benefit the PAL program.

Captain Cantando recognized Mr. and Mrs. Fernandez, for their donations to the PAL program and presented them with t-shirts.

Mr. Fernandez complimented the Antioch Police Department for their dedication to the community.

Councilmember Kalinowski suggested a discussion by the City Council occur at the upcoming Quality of Life forum regarding the matching of donations made by City employees to the PAL program.

Mayor Freitas discussed the possibility of extending the program donor availability.

In response to Councilmember Simonsen, Captain Cantando clarified the Antioch Police Department was part of the California Youth Activities League (CALPAL); however, those funds were distributed among all CALPAL cities. He did note anyone wishing to make a donation specifically for use by the Antioch PAL Program, should send those checks to the Antioch Police Department or Antioch Community Federal Credit Union. The checks should be made payable to the Antioch Police Activities League or Antioch PAL.

Councilmember Davis spoke in support of the program, explaining Councilmembers contribute through payroll deductions.

Chief Hyde presented Public Works Employees Dennis Celoni and Darrell Dodson with a recognition certificate commending them for coming to the aid of a citizen and interrupting a robbery in progress, which lead to the apprehension of the suspects and the recovery of the victim's property.

Mr. Celoni and Mr. Dotson thanked Chief Hyde for the recognition and encouraged all citizens to make an effort to become involved.

Mayor Freitas thanked Chief Hyde for recognizing Mr. Celoni and Mr. Dotson, and on behalf of the victim and community thanked them for a job well-done.

Councilmember Moore thanked Dennis Celoni and Darrell Dodson for representing Public Workers and responding to a citizen in need.

PRESENTATION

Gretchen Morris, Coastal Cleanup

Parks Superintendent Palmeri introduced Gretchen Morris, who through the *Starbucks Make a Difference Program*, volunteered and supported the Coastal Cleanup Program.

Ms. Morris thanked Park Superintendent Palmeri for the recognition, noting they had enjoyed participating in the Coastal Cleanup Program.

Councilmember Davis presented Ms. Morris with a Certificate of Recognition in appreciation for her service.

Park Superintendent Palmeri also presented Ms. Morris with a volunteer pin, tag and keychain as well as a bouquet of flowers.

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Ken Lee, Antioch resident, encouraged residents to assemble disaster preparedness kits in the event of a major earthquake. He announced the Contra Costa Fire Department offered free Community Emergency Response Team classes and provided contact information for anyone wishing to receive additional information.

PUBLIC COMMENTS

Charles Owen, Antioch resident, expressed his concern as he had received notification from the City indicating he had a vehicle parked in public view with expired registration. He noted the vehicle was parked in his driveway, was currently registered, and stated the sticker had been stolen. He urged the City Council to change the City's procedures and remove §4-16.07 from City's code.

Chip Stein, Antioch resident, questioned where the Federal ADA funds were being expended.

Ken Lee, Antioch resident, gave a brief history of Antioch Chinese History and spoke to the history of the attendance of Mr. Stein and himself at City Council meetings.

COUNCIL RESPONSE TO PUBLIC COMMENTS

Councilmember Kalinowski requested the City Manager Jakel have Code Enforcement provide Council with a report describing the procedures used in the action taken against Mr. Owen.

Councilmember Simonsen requested City Manager Jakel consider implementing a procedure by which Code Enforcement would have the ability to run license plates to determine whether or not vehicles were properly registered while at the site of the car. If they were registered, notices could be sent to the resident informing them to place their sticker on the vehicle, or receive a fine. If the vehicle was not properly registered, the officer could proceed with ticketing the vehicle.

Councilmember Moore apologized to Mr. Owen, noting he had voted against the ordinance, as he felt confident as the program matured, such errors would be eliminated.

1. COUNCIL CONSENT CALENDAR

A. APPROVAL OF COUNCIL MINUTES FOR FEBRUARY 26, 2008 (#301-02)

B. APPROVAL OF COUNCIL WARRANTS (#401-01)

C. APPROVAL OF TREASURER'S REPORT FOR FEBRUARY 2008 (#401-02)

- D. LEGISLATION AND ADVOCACY (#701-04)**
- E. REJECTION OF CLAIMS (#704-07)**
1. Blehm Page, 07/08-1783 (personal injury, civil rights).
 2. Juan Carlos Rivera, 07/08-1784 (personal injury, civil rights).
 3. Pamela Sherman, 07/08-1785 (personal injury, civil rights).
 4. Benny Pugh, Jr., 07/08-1786 (personal injury, civil rights).
 5. Patricia Quesada, 07/08-1787 (personal injury, civil rights).
 6. Eric Quesada, 07/08-1788 (personal injury, civil rights).
 7. Jesse Johnson, 08/09-1799 (false arrest, personal injury civil rights).
- F. ORDINANCE NO. 2014 C-S — HILLCREST SUMMIT / BEDROCK VENTURES, INC. APPROVAL OF A PLANNED DEVELOPMENT REZONE AND USE PERMIT FOR A MIXED USE DEVELOPMENT CONSISTING OF RETAIL AND OFFICES LOCATED ON HILLCREST AVENUE AND EAST TREGALLAS ROAD. (APN'S: 052-100-055 AND - 056) FILE: PD-06-04, UP-06-21, AR-06-17, S-08-01 (#202-03)**
- G. APPROVAL OF AWARD OF PROPOSAL FOR WATER TREATMENT REMOVAL/INSTALLATION OF GRANULAR ACTIVATED CARBON, PROPOSAL NO. 968-0128-08F (#601-02)**
- H. MARKLEY CREEK REMEDIATION PROJECT: COST-SHARING AGREEMENT AND PARTIAL RELEASE WITH SOMERSVILLE-GENTRY, INC. AND SPPI-SOMERSVILLE, INC. (#814-01)**
- I. MARKLEY CREEK REMEDIATION PROJECT: AUTHORIZATION TO ADVERTISE FOR BIDS (P.W. 431-1A) (#814-01)**
- J. CONSULTING PLAN CHECK SERVICES FOR STATE ROUTE 4 PROJECT DESIGN (#1102-03)**
- K. AGREEMENT FOR ON CALL TRAFFIC ENGINEERING SERVICES (#502-01)**
- L. REVISED PROCLAMATION FORMAT (#301-01)**
- M. RESOLUTION NO. NO. 2008/30 AMENDING THE MASTER FEE SCHEDULE TO REDUCE BUILDING PERMIT FEES FOR INSTALLATION OF PHOTOVOLTAIC SYSTEMS (PV/Solar) (#409-01)**

On motion by Councilmember Simonsen, seconded by Councilmember Moore, the Council unanimously approved the Council Consent Calendar with the exception of items #F and #K, which were removed for further discussion.

Item F . Councilmember Kalinowski stated due to owning property in the area and a potential conflict of interest, he would be abstaining on the item.

On motion by Councilmember Simonsen, seconded by Councilmember Davis, the City Council approved item F.

The motion carried by the following vote:

Ayes: Freitas, Davis, Simonsen, Moore

Abstain: Kalinowski

As noted under Staff Communications, City Attorney Nerland clarified Councilmember Kalinowski abstained himself from item #F due to a potential conflict of interest and the vote should read 4/0 in favor of the motion.

Item K – Councilmember Moore expressed concern the City had been unable to hire for the position, therefore he would not be supporting the Agreement for On Call Traffic Engineering Services, as he felt the work should be done by public service employees.

On motion by Councilmember Kalinowski, seconded by Councilmember Davis, the City Council approved item K.

The motion carried by the following vote:

Ayes: Freitas, Davis, Kalinowski, Simonsen

Noes: Moore

PUBLIC HEARINGS

- 2. ALMONDRIDGE HOME SIZE MODIFICATIONS / KB HOMES SOUTH BAY, INC. REQUESTS APPROVAL OF MODIFICATIONS TO THE SINGLE FAMILY HOME PRODUCTS AT THE 81 UNIT ALMONDRIDGE DEVELOPMENT LOCATED ON THE EAST SIDE OF PHILLIPS LANE, APPROXIMATELY 700 FEET SOUTH OF EAST EIGHTEENTH STREET (APN: 051-200-015 AND 051-200-053); ON FEBRUARY 20, 2008 THE PLANNING COMMISSION VOTED 5-2 TO RECOMMEND DENIAL UP-04-30 (#202-10)**

Associate Planner Gentry presented the staff report dated March 21, 2008, recommending the City Council uphold the Planning Commission's recommendation and deny the home size and unit mix modification amendments to the use permit.

Mayor Freitas opened the Public Hearing.

Ray Panek, Senior Vice President for Forward Planning with KB Homes, gave a brief overhead presentation of the requested Almondridge Home Modifications, noting he would be willing to discuss alternative proposals with the City Council to make the project more acceptable.

With no further requests to speak, Mayor Freitas closed the Public Hearing.

Councilmember Simonsen and Councilmember Moore stated they felt the project addressed the need to provide single story, single family homes in Antioch and therefore they would be supporting the appeal.

Councilmember Kalinowski stated he was not prepared to allow the proposed reduction in home sizes by the developer on the project absent factual findings which showed the need in the community for the market. Additionally, he expressed concern regarding the impact of the reduced Mello Roos assessments, should the project be approved as modified by the applicant, including his concern the modifications would set an unfavorable precedent.

Mayor Freitas stated he was not supportive of the proposed reductions, absent any enhancements, to the property and noted he would be willing to discuss the issue with the applicant. Additionally, he felt Antioch offered a vast diversity in housing stock and did not feel a future need of smaller homes. He requested staff provide clarification as to which Mello Roos District the project would be built..

In response to Mr. Simonsen, Mr. Panek clarified in all likelihood they would build the subdivision improvements; however if the project mix remained as previously approved they would probably put the subdivision on hold. If the modifications were approved tonight, he stated they intended to have them open for sale toward the end of 2008.

Councilmember Moore voiced his supported of the infill development adding he felt the project would be an economic stimulus in the East 18th Street plan area.

On a motion by Councilmember Simonsen, seconded by Councilmember Moore, to approve the resolution approving the request of KB Homes South Bay Inc. to modify the floor plan size and unit mix at the Almondridge Development failed by the following vote:

Ayes: Simonsen, Moore

Noes: Freitas, Davis, Kalinowski

A motion by Councilmember Simonsen to approve the resolution denying the request of KB Homes Sough Bay Inc. to modify the floor plan size and unit mix at the Almondridge Development without prejudice failed for the lack of a second.

RESOLUTION NO. 2008/31

A motion by Councilmember Kalinowski, seconded by Councilmember Davis, the City Council upheld the Planning Commission's recommendation and denied the home size and unit mix modification amendment to the use permit.

The motion carried by the following vote:

Ayes: Freitas, Kalinowski, Davis

Noes: Moore, Simonsen

Following discussion, Council consensus indicated it was the preference of the City Council not to downsize housing products and/or lot sizes, however if a request was made they would consider it on a case-by. case basis.

3. HILLCREST VIEW INVESTORS/JIM BONES REQUESTS AN EXTENSION OF THE PREVIOUSLY APPROVED USE PERMIT AND SUBDIVISION MAP WHICH ALLOWED FOR THE CONVERSION OF 64 EXISTING MULTI-FAMILY RESIDENTIAL UNITS TO CONDOMINIUM UNITS LOCATED AT 3001 KODIAK STREET (APN 053-040-070). ON MARCH 5, THE PLANNING COMMISSION VOTED 6 - 0 TO RECOMMEND APPROVAL OF THE USE PERMIT AND SUBDIVISION MAP EXTENSION FILE: UP-06-02 AND PW-656 (#202-10)

Community Development Deputy Director Wehrmeister presented the staff report dated March 20, 2008 recommending the City Council approve the resolution extending the Use Permit and Tentative Map for one year.

Mayor Freitas opened the Public Hearing.

John Hewett, representing Jim Bones, stated he was available to answer any questions from Council and clarified due to the state of the market, the Condominium Conversions had not taken place.

Mayor Freitas closed the Public Hearing.

RESOLUTION NO. 2008/32

On motion by Councilmember Simonsen, seconded by Councilmember Kalinowski the City Council unanimously approved the resolution extending the Use Permit and Tentative Map for one year.

COUNCIL REGULAR AGENDA

4. INFORMATION PRESENTATION ON POLICE DEPARTMENT 3 YEAR STRATEGIC PLAN (#1301-01)

Chief Hyde presented the staff report dated March 18, 2008 and gave a brief overhead presentation of the Antioch Police Department Strategic Plan July 2007 . June 2010 recommending the City Council receive and file the report.

Councilmember Kalinowski reported he had attended the Crime View meeting and was very impressed with the level of dedication and leadership taking a role in East County to address regional issues. He spoke in support of the Strategic Plan and the direction taken by the Antioch Police Department under Chief Hyde as well as expanding the narcotics enforcement program to reduce crime in Antioch.

Councilmember Davis thanked Chief Hyde for the presentation and spoke in support of the Strategic Plan. He suggested expanding the Stranger Danger Program for Antioch Elementary Schools and training parents to be mentors to give the program under the direction of the APD.

Chief Hyde reported that through the Police Activities Initiative an officer had volunteered to teach the Stranger Danger program through the PAL program.

Councilmember Davis volunteered to assist with the Stranger Danger Program. He spoke to the importance of increasing traffic enforcement throughout the community.

Chief Hyde stated they had recently been able to bring the traffic unit to full staffing.

Councilmember Davis thanked Chief Hyde and the APD for their dedication to the City.

Councilmember Simonsen thanked Chief Hyde for the report and spoke in support of the Strategic Plan and the direction of the APD.

Councilmember Moore spoke in support of the Strategic Plan and the efforts of the APD to reach out to the youth in the community.

Mayor Freitas spoke in support the Strategic Plan and commended Chief Hyde for reaching out to the public and the City family as well as holding himself and APD accountable. He agreed narcotics enforcement should be a priority and suggested City Manager Jakel periodically provide more details on the City's strategy to reduce crime. He invited the community to attend the Quality of Life Forum on March 29, 2008 from 8:30 A.M. . 12:00 P.M. at the Nick Rodriguez Theater.

Chief Hyde stated he was proud of the men and women of the Antioch Police Department (APD), noting the strategic plan was developed by the APD for the community. He thanked the community, City Council and staff for their support.

5. "OUT OF AGENCY SERVICE AGREEMENT" FOR PG&E AND FOR THE NORTHEAST ANNEXATION: ADOPTION OF A NEGATIVE DECLARATION AS ADEQUATE TO ADDRESS ANY ENVIRONMENTAL IMPACTS AND AUTHORIZE STAFF TO SUBMIT TO LAFCO AN APPLICATION FOR AN "OUT OF AGENCY SERVICES AGREEMENT," AND AUTHORIZE STAFF TO NEGOTIATE AND EXECUTE SUCH AN AGREEMENT WITH PG&E FOR THE PG&E POWER PLANT CURRENTLY UNDER CONSTRUCTION LOCATED AT 3225 WILBUR AVE (#202-02)

Community Development Deputy Director Carniglia presented the staff report dated March 18, 2008 recommending the City Council: 1) adopt the resolution finding the Negative Declaration adequate to address the environmental impacts of the Out of Agency Service Agreement for PG&E, and for the Northeast Antioch Annexation (AN-2007-1); and, 2) adopt the resolution to authorize staff to submit to LAFCO an application for an Out of Agency Service Agreement for the purpose of providing sewer collection, sewer treatment, and water supply to the PG&E Power Plant currently under construction located at 3225 Wilbur Ave., within the Northeast

Antioch Annexation Area and authorize the City Manager to negotiate and execute an Out of Agency Services Agreement with PG&E subject to the stipulations as spelled out in the resolution, pending approval of the application by LAFCO.

Mayor Freitas thanked Community Development Deputy Director Carniglia for the update and clarified the focus of the meeting was the negative declaration along with the Out of Agency Service Agreement. He reported part of the purpose of the annexation was to bring some of the industrial into the City, in an effort to eliminate the brownfields and develop the property. He clarified the purpose was not to annex the residential properties. The City Council had indicated throughout the process, the decision to annex in Areas 2a and 2b would be strictly at the property owners discretion.

Bill Worrell, representing the Sportsman Inc. Yacht Club, was disappointed in not having received an agenda, or any other type of notification of the meeting dealing with the possible annexation. Therefore, neither he nor his neighbors or associates were prepared to make a presentation at meeting. He stated he did not feel it was the public's best interest for the City Council to take action on the item this evening and requested the item be delayed to allow him time to study the issues and prepare a response.

Mayor Freitas clarified Viera Lane was not on the agenda, the focus of the agenda was the adequacy of the Negative Declaration and the Out of Agency Service Agreement with the primary focus on PG&E.

William LeRoy, Antioch resident, spoke to his concerns related to the negative impacts of water and air pollution on Antioch citizens.

Tom Guarino, representing PG&E Government Relations Manager for East County, indicated they did not have an issue with the staff report; however, they were available to answer any questions Council or staff might have at this time, noting they had attempted to collaborate with Mayor Freitas, Council, and staff, in an effort to move this process forward. He reported the plant was energy efficient, environmentally sound, and PG&E would hire local employees for their union jobs. Additionally, he noted they were committed to being good corporate citizens.

Thomas Allen, Project Manager, stated a two-inch meter would be installed to provide water for the boiler and administration building. He reiterated they were good corporate citizens, environmentally sensitive. Emphasizing the point, he stated, the operation of the proposed plant would produce no plume, adding the operation would meet or exceed industry standards. He clarified the agreement was to pay for full costs and service of the water to be provided. He reiterated, the action, as agendaized, had nothing to do with the annexation of Viera Lane.

In response to Councilmember Moore, Mr. Allen clarified they would be using 97% less river water than their original permit would have allowed.

Councilmember Moore stated, given the concerns heard during the hearing, and the significant amount of water being requested, he was not prepared to take action on the negative declaration or out of agency service agreement without further information.

In response to Mayor Freitas, Mr. Allen clarified they were using approximately 40 acre feet per year. Community Development Director Brandt clarified the City had incorporated the area into the Water Master Plan and PG&E would be taking less water than originally planned, and was a relatively insignificant amount. He noted the project would have no impact on existing entities in the City.

In response to Councilmember Simonsen, Mr. Allen clarified the City of Antioch would not be subsidizing any water.

Darlene Dawson, Antioch resident, requested clarification as to which unincorporated area was before the City Council and whether or not providing PG&E with water would increase the potential for Antioch residents to be on water rationing.

Mayor Freitas clarified the matter before the City Council was only Area 1 and did not include 2A or 2B. He also noted the proposal from Governor Schwarzenegger would not trigger water rationing; however, if there was a drought situation, everyone would be impacted.

Devi Lanphere, Antioch Chamber of Commerce, reiterated their support for the growth taking place in the area, including local control over future development. She urged the City Council to take action this evening and move the LAFCO process forward.

RESOLUTION NO. 2008/33
RESOLUTION NO. 2008/34

On motion by Councilmember Kalinowski, seconded by Councilmember Simonsen, the City Council: 1) Adopted the resolution finding the Negative Declaration adequate to address the environmental impacts of the Out of Agency Service Agreement with PG&E, and for the Northeast Antioch Annexation (AN-2007-1), and; 2) Adopted the resolution authorizing staff to submit to LAFCO an application for an Out of Agency Service Agreement for the purpose of providing sewer collection, sewer treatment, and water supply to the PG&E Power Plant currently under construction, located at 3225 Wilbur Ave., within the Northeast Antioch Annexation Area, and; authorized the City Manager to negotiate and execute an Out of Agency Services Agreement with PG&E subject to the stipulations as spelled out in the resolution, pending approval of the application by LAFCO.

The motion carried by the following vote:

Ayes: Freitas, Kalinowski, Davis, Simonsen

Noes: Moore

Mayor Freitas stated the consensus of the City Council was to direct City Manager Jakel to inform all the interested parties in Areas 2a and 2b of Council's actions, and henceforth to provide them with an update on a regular basis as to the process of the item.

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

6. AGENCY REGULAR AGENDA

A. APPROVAL OF AGENCY WARRANTS (#401-01)

On motion by Agency Member Simonsen, seconded by Agency Member Davis, the City Council unanimously approved the Agency Warrants.

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

PUBLIC COMMENTS

Bill Worrell, Antioch resident, discussed the public trust and his concerns related to the City of Antioch providing water for the PG&E Power Plant.

Ken Lee, Antioch resident, reiterated his concerns related to the Antioch Auto Dealership, handicapped ramps, and actions taken against speakers at City Council meetings.

William LeRoy Antioch resident reiterated his concerns related to the restriction of free speech and the City Council's support of agenda item #5 this evening.

STAFF COMMUNICATIONS

City Manager Jakel announced the Quality of Life Forum would be held on March 29, 2008 in the Nick Rodriguez Community Theater from 8:30 A.M 12:00

Regarding Consent Calendar item 1F, City Attorney Nerland clarified Councilmember Kalinowski meant to recues himself and not participate in the action as opposed to abstaining.

Councilmember Kalinowski indicated the vote should read as 4/0 to approve item 1F

COUNCIL COMMUNICATIONS

Councilmember Kalinowski announced he would be out of town on business for the next City Council meeting.

Councilmember Moore announced he would be at the California Democratic State Convention on March 29, 2008 and unable to attend the Quality of Life Forum.

With no further business, Mayor Freitas adjourned the meeting at 9:37 P.M. to the next regular Council meeting on April 8, 2008.

L. JOLENE MARTIN, CMC
City Clerk