

## ANTIOCH CITY COUNCIL

Regular Meeting  
7:00 P.M.

October 14, 2008  
Council Chambers

### 6:00 P.M. - CLOSED SESSION

**1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION** – 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. re: Markley Creek; SPPI-Somersville, Inc. et al. v. TRC et al. (USDC N.D. Cal Case No C04-2648 SI); SPPI-Somersville, Inc. et al. v. Chevron (USDC N.D. Cal. Case No. C07-05824 SI). This Closed Session is authorized pursuant to Government Code §54956.9 (a)

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

Boy Scout Troop #151 led the Council and audience in the Pledge of Allegiance.

Jessica Bunting sang the Star Spangled Banner.

### ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Paul Dugan, representing American Legion Post #161, announced the November 11, 2008, Veterans Day parade was scheduled to begin at 11:00 A.M. Contact information was provided.

Mayor Freitas requested Walter Ruehlig inform the Antioch Unified School District of the event and encourage student participation.

Devi Lanphere, Antioch Chamber of Commerce, announced dates and times of political forums for the candidates of the November 4, 2008 municipal election. She further stated the Midway of Fun carnival would be opening soon at Prewett Park. Contact information was provided.

Barbara Sobalvarro, President of Friends of Animal Services, stated the date and location of this year's Black Cat Ball would be the Lone Tree Golf Course on October 25, 2008. She noted a community meeting, regarding the Antioch Animal Shelter, was schedule for October 30, 2008 from 7:00 – 9:00 P.M. and encouraged those interested in the plight of lost and feral cats attend.

She presented the City Council with tickets and provided contact information.

### PRESENTATION ON SUMMER RECREATION UPDATE

Recreation Deputy Director Sanderson gave a brief overhead presentation of the Summer 2008 Program.

Lonnie Karste announced the Police Activities League (PAL) Charity Golf Tournament would be held at the Lone Tree Golf Course on October 17, 2008. Contact information was given.

## **PUBLIC COMMENTS**

Chip Stein announced he had been diagnosed with cancer. He spoke to the RV ordinance and the upcoming election.

Ken Lee spoke to the benefit of term limits, the election and concerns he had voiced at previous City Council meetings.

Walter Ruehlig, County Library Commission, thanked Mayor Freitas and Councilmember Davis for attending the dinner honoring the Police and Fire Fighter of the year. He also thanked Mr. Lonnie Karste for the presentation he made to the School Board on the Gateway Center for Learning, noting his support for the project. He reviewed the 2007-2008 County Library Commission report.

Devi Lanphere, announced the Antioch Chamber of Commerce, had *Clear Vision 20/20* information available. Contact information was given.

Debra Huiner, Antioch resident, stated she had been out of town and unaware she was required to register her RV for a permit. She apologized and requested the City Council allow her to register her RV.

Mayor Freitas requested City Manager Jakel respond to Ms. Huiner.

Barbara Sobalvarro thanked the Antioch Recreation Department for their cooperation in allowing the Friends of Animal Services to meet at the Nick Rodriguez Center.

Antioch resident, Thomas Judge, announced his intent to run for the Antioch City Council, with the intent to repeal the RV ordinance.

## **COUNCIL RESPONSE TO PUBLIC COMMENTS**

Councilmember Davis thanked Mr. Stein for serving on the Veteran's Day parade committee and stated he wished him the best in dealing with his health issues. He apologized to Mr. Stein for his having been removed from Council Chambers at a previous meeting.

Councilmember Moore spoke to the potential to receive Library funding from the state.

### **1. COUNCIL CONSENT CALENDAR**

#### **A. APPROVAL OF COUNCIL MINUTES FOR SEPTEMBER 9, 2008 (#301-02)**

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

**C. LEGISLATION AND ADVOCACY (#701-04)**

- D. ORDINANCE NO. 2018-C-S REZONING THE PROPERTY LOCATED AT 1803 EVERGREEN AVENUE (PORTION), 1807 EVERGREEN AVENUE, AND 2 HELMUTH LANE (APN: 068-017-010, 068-017-013, 068-041-026), TO THE SINGLE FAMILY RESIDENTIAL DISTRICT (R-6) (BARNES/BEATTIE/z-07-03/v-08-04) (#202-05)**
- E. RESOLUTION NO. 2008/93 UPDATE OF RECORDS RETENTION SCHEDULE (#104-01)**
- F. APPROVE AWARD OF PROPOSAL FOR RESURFACE OF LAP POOL AT PREWETT WATERPARK, REBID NO. 988-0905-09F (#601-02)**
- G. RESOLUTION NO. 2008/94 AUTHORIZE THE CITY MANAGER TO ENTER INTO AN AMENDED CONSULTING CONTRACT WITH THE FIRM OF DYETT BHATIA TO PREPARE AN INFRASTRUCTURE FINANCING PLAN AS A COMPONENT OF THE RIDERSHIP DEVELOPMENT PLAN FOR THE HILLCREST eBART STATION AREA (#1107-03)**
- H. SAKURAI STREET PROJECT: ACQUISITION OF ROADWAY, SEWER AND PUBLIC UTILITY EASEMENTS BY EMINENT DOMAIN: AMENDMENT TO AGREEMENT WITH ASSOCIATED RIGHT OF WAY SERVICES, INC. (#1000-03)**
- I. MARKLEY CREEK REMEDIATION PROJECT, (P.W. 431-1A): INCREASE CONTRACT FUNDING AND APPROVE THE FIRST AMENDMENT TO THE CITY OF ANTIOCH AND SOMERSVILLE COST-SHARING AGREEMENT AND PARTIAL RELEASE TO ADDRESS REMOVAL OF WASTE FROM (APN 076-010-034)(#814-01)**

On motion by Councilmember Simonsen, seconded by Councilmember Davis, the Council unanimously approved the Council Consent Calendar.

**PUBLIC HEARINGS**

- 2. CITY GATE/ THE EQUUS GROUP REQUESTS APPROVAL OF A REZONE FROM PLANNED BUSINESS CENTER (PBC) TO PLANNED DEVELOPMENT (PD) AND APPROVAL OF FINAL DEVELOPMENT PLAN LOCATED AT THE INTERSECTION OF HOLUB LANE AND EAST EIGHTEENTH STREET (APN'S: 051-200-025, -26 AND -036) FILE: Z-08-02, PD-08-06 (Con't from 9/9 and 9/23/08) (202-05)**

Associate Planner Gentry presented the staff report dated October 10, 2008, recommending the City Council: A) approve the resolution adopting the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; B) read the ordinance by title only; C) introduce the ordinance rezoning 15.92 acres making up the project site to the Planned Development District (PD); and, D) adopt the resolution approving the Final Development Plan contingent upon adoption of the requested rezoning

Councilmember Simonsen gave a brief overview of the subcommittee meeting process regarding the application.

Mayor Freitas opened the public hearing.

**PROPONANT**

Brent Aasen, Managing Partner Equus Group, thanked staff and Councilmembers Moore and Simonsen for the successful meeting. He briefly described the sample site plan and stated he was available to answer Council's questions.

With no other speakers, Mayor Freitas closed the public hearing.

Following discussion, the City Council agreed to amend the Table of Land Use Regulations as follows:

- Adding a line that indicated open storage or display was subject to a use permit in zones C and D and prohibited in zones A and B.
- Self Storage, Mini Storage, RV Storage – change sub area D from Permitted to Use Permit

And the following amendment to City Gate D. Planned Development Zoning Regulations (Attachment H):

- Page H5, C4, first sentence to read: "Open Storage or Display, Open storage and/or display of merchandise are prohibited in the City Gate PD zone unless expressly provided for above or through the Design Review and Use Permit process."

Additionally, at the request of City Attorney Nerland the City Council supported the following:

- City Gate D. Planned Development Zoning Regulations (Attachment H): Page H8 – Deleting Conflicting Regulations A and B.

Mr. Aasen voiced his support of the City Council's amendments as previously discussed.

**RESOLUTION NO. 2008/95**

**RESOLUTION NO. 2008/96**

On motion by Councilmember Simonsen, seconded by Councilmember Kalinowski, the City Council unanimously approved: A) approve the resolution adopting the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; B) read the ordinance by title only; C) introduce the ordinance rezoning 15.92 acres making up the project site to the Planned Development District (PD), and; D) adopt the resolution approving the Final Development Plan contingent upon adoption of the requested rezoning with the following changes:

- Adding a line that indicates open storage or display is subject to a use permit in zones C and D and prohibited in zones A and B.
- Self Storage, Mini Storage, RV Storage – change sub area D from Permitted to Use Permit

Add the following amendment to City Gate D. Planned Development Zoning Regulations (Attachment H):

- Page H5, C 4, first sentence to read: "Open Storage or Display, Open storage and/or display of merchandise are prohibited in the City Gate PD zone unless expressly provided for above or through the Design Review and Use Permit process."
- Page H8 – Deleting Conflicting Regulations items A and B.

Mayor Freitas declared a recess at 8:16 P.M. The meeting reconvened at 8:28 P.M. with all Councilmembers present.

### **3. FUEL SURCHARGE REQUEST FROM ALLIED WASTE SERVICES, INC. (#1201-05)**

This item was continued to November 18, 2008.

## **COUNCIL REGULAR AGENDA**

### **4. PRESENTATION BY MIRANT CORPORATION ON THE PROPOSED MARSH LANDING POWER PLANT TO BE LOCATED ON THE NORTH SIDE OF WILBUR AVE, WEST OF HWY 160 (#1204-01)**

Deputy Director Carniglia presented the staff report dated October 3, 2008 recommending the City Council receive the report.

Chip Little, representing Mirant Corporation, gave a brief overview of the proposed power plant facility.

Bill Worrell, Antioch resident, representing himself and the Sportsman Yacht Club spoke in support of the project. He suggested the City Council request PG&E to release their fresh water supply and use recycled water.

Mayor Freitas reported Delta Diablo attempted to get PG&E to use recycled water however the PUC did not agree.

Monique Lazzarini, Antioch resident and Mayoral Candidate, spoke to the importance of getting a full environmental study prior to the approval of the project. She requested information regarding Mirant's safety record, if there was any current litigation and if there was a possibility of power generation credit for residents.

Mr. Little clarified the California Energy Commission would conduct a thorough environmental review of the project.

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

### **5. APPOINTMENT TO CONTRA COSTA TRANSPORTATION AUTHORITY CITIZENS ADVISORY COMMITTEE #302-01**

Mayor Freitas nominated David Pfeiffer to the Contra Costa Transportation Authority Citizens Advisory Committee.

On motion by Councilmember Moore, seconded by Councilmember Simonsen, the City Council unanimously appointed David Pfeiffer to the Contra Costa Transportation Authority Citizens Advisory Committee.

**6. CASINO BUILDING/ JOE MARTINEZ IS APPEALING THE DESIGN REVIEW BOARD'S DECISION TO DENY THE ARCHITECTURE AND SIGNAGE FOR THE CASINO BUILDING, LOCATED AT 101 H STREET. JOE MARTINEZ IS ALSO REQUESTING A LOT LINE ADJUSTMENT AND SALE OF CITY PROPERTY TO CORRECT THE EXISTING ISSUE OF THE BUILDING BEING CONSTRUCTED OVER THE LOT LINE AS WELL AS REQUESTING AN EASEMENT ON THE CITY OWNED PARKING LOT TO THE EAST OF THE SUBJECT SITE. (APN: 066-071-007) FILE: AR-07-13 (Continued from 9/23/08) (#202-12)**

Associate Planner Gentry presented the staff report dated October 7, 2008 recommending the City Council take the following action: A) adopt a resolution to approve or to deny the appeal of the Design Review Board's decision to deny without prejudice the architecture and signage for the Casino Building; B) adopt a resolution to approve or to deny the applicant's request of an approximate 8.4' "No Build" easement on the adjacent City owned parcel; and C) adopt a resolution to approve or to deny the applicant's request to sell approximately 496.71 sf of City owned property for a lot line adjustment to correct the issue of the building being constructed over the property line.

Associate Planner Gentry clarified the agenda was incorrect and the staff report had the correct numbers for the square footage of the City owned property including the dimensions of the "no build" easement.

Community Development Director Brandt gave a brief overview of the process used to determine the property line and the easement modifications for the HVAC units.

Mr. Martinez gave a brief history of his project, stating he was willing to do whatever was necessary to move forward.

Business owner Dan Ochoa, Devi Lanphere, Antioch Chamber of Commerce Director, along with Jim Lanter, Mary Rocha and Gary Reiman spoke in support of the project and urged the City Council's approval.

Thomas Judge, Antioch resident, stated if the applicant would agree to bring the project up to the original standards, he would support the City Council's approval of the "no build" easement and the sale of the City owned property for the lot line adjustment.

Devi Lanphere, Antioch Chamber of Commerce and resident of Antioch, stated she would urge the following: safety of tenant improvements, support of downtown, great opportunity, windows were needed for security purposes, consideration to the enhancement to downtown.

Ken Lee, Antioch resident, spoke to various property lines issues in the City.

Following discussion the City Council agreed to continue the item to October 28, 2008. Council consensus provided the following direction:

- Standard Condition #7: That any significant deviations from the proposed project would be subject to review and approval of the Community Development Director.
- Consolidate standard conditions #11, 14 and 23 to read: That the developer shall pay all appropriate fees required by the City of Antioch including but not limited to the Regional Traffic Impact Fee and Traffic signal fees. (Staff was further directed to review the appropriateness of the fees)
- Consolidate standard conditions #24 and 39.
- Revise project specific condition #42 to indicate the placement of HVAC condensing units shall be placed as close to the exterior of the building as permitted by Uniform Building Code (UBC) Uniform Mechanical Code (UMC) and National Electric Code (NEC).
- Add project specific condition #54: That the lighting shall be installed as depicted in Attachment L.
- HVAC units permitted in no build easement, in exchange for staff approval of landscaping (approximate value \$3500), and installation of PG&E meter and outlet, which would be used for City events.
- Sale of City property 496.71 sf for lot line adjustment in the amount of \$1.00. City Attorney to provide language for the findings. (Suggestions from the City Council for the findings were as follows: city abandoned property, benefit of stimulating economic growth, enhancement of public safety and increased property values).
- Show by graphic design the lot line adjustment/easement.
- Ability for staff to increase the easement, if necessary, to accommodate the HVAC units.

Mayor Freitas stated it was the duty of the City Council to treat everyone fairly and equitability. To that end, he stated his concern was, by making an exception for this project, the City could be setting precedence. He stated he would be abstaining from the vote on the project, due to his preference to put the air conditioning units on the roof.

#### **7. PREWETT PARK SITE DEVELOPMENT (YMCA AND BEDFORD CENTER COLLABORATIVE UPDATE) (#1402-03)**

Project Manager Karste presented the staff report dated September 12, 2008 recommending the City Council receive and file the report.

On motion by Councilmember Kalinowski, seconded by Councilmember Davis, the City Council unanimously received and filed the report.

#### **PUBLIC COMMENTS**

Bill Worrell, Antioch resident, gave a brief overview of the Bureau of Water Resources meeting on October 8, 2008 regarding the Franks Tract Project. He discussed the negative impacts of the project and urged the City to bring resources together to oppose the project moving forward.

Mayor Freitas gave a brief history of the State's failed attempt to improve water quality and suggested the City Council hold a Public Hearing on the process.

Councilmember Moore thanked Mr. Worrell for bringing the information forward.

### **STAFF COMMUNICATIONS**

City Manager Jakel reported PG&E had donated money and workers to install tables, benches and bleachers at City Park. He also stated, for an additional sum, the City had received a commitment to complete the work in the concession stand. Regarding the HWY 4 Bypass, City Manager Jakel announced the grand opening of Segment 3 was scheduled for October 27, 2008 at 2:00 P.M. Regarding the Contra Costa Food Bank, Mr. Jakel noted City staff had made a cash contribution of \$3,000 to the Contra Costa Food Bank. He further noted the next City Council meeting would be on October 28, 2008.

### **COUNCIL COMMUNICATIONS**

Mayor Freitas announced a meeting, held earlier in the day, with the East County Mayors, City Managers and Attorneys, regarding the negative impacts and mitigation measures for the Union Pacific Railroad reconstruction of the MOCOCO Line. He requested a staff report back to the City Council regarding the conversion of the irrigation lines currently located in the road medians, to a drip system, and the resulting water conservation.

Councilmember Simonsen stated he had attended meetings dealing with the Bay Delta conservation plan. He announced the Delta Vision Blue Ribbon Task Force would be meeting on October 16 and 17, 2008, stating draft five of the plan had been released and was available on the internet. He reported on the League of California Cities Annual Conference and announced the Association for Bay Area Government General Assembly would be meeting on Oct 24, 2008. He thanked the Chamber of Commerce for the official kick off of the Clear Vision 20/20 plan.

Councilmember Moore announced he had represented the City Council at the American Public Transportation Associations Annual Expo.

Mayor Freitas announced the passing of Antioch resident and business owner, Bill Mercado.

With no further business, Mayor Freitas adjourned the meeting in memory of Bill Mercado at 10:30 P.M. to the next regular Council meeting on October 28, 2008.

Respectfully submitted:

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L. JOLENE MARTIN, CMC  
Antioch City Clerk