

CITY COUNCIL MEETING

Regular Meeting
7:00 P.M.

November 8, 2016
Council Chambers

5:30 P.M. - CLOSED SESSION

1. **CONFERENCE WITH LABOR NEGOTIATORS** – This Closed Session with the City's Labor Negotiators is authorized by California Government Code § 54957.6; City designated representatives: Nickie Mastay, Denise Haskett and Glenn Berkheimer; Employee organizations: Antioch Police Officers' Association, Operating Engineers Local Union No. 3 (OE3), Antioch Police Sworn Management Association (AP SMA), Confidential Unit, and Management Unit.
2. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION** pursuant to California Government Code Section 54956.1(d)(1): Mark Jordan v. City of Antioch, Contra Costa County Superior Court Case No MSN 16-0527.
3. **CONFERENCE WITH LEGAL COUNSEL ANTICIPATED LITIGATION** – Significant Exposure to Litigation pursuant to California Government Code section 54956.9(d)(2): Receipt of Supplemental Notice of Potential Claim filed by Sierra Valley Construction.
4. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to California Government Code section 54956.8; Property – Humphrey's Restaurant: Agency Negotiator – City Manager; Parties – Dorothy Everett and John Jernegan.

City Attorney Vigilia reported the City Council had been in Closed Session and gave the following report: **#1 CONFERENCE WITH LABOR NEGOTIATORS**, Direction to staff and **#2 CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**, By a 5/0 vote, Council approved the settlement; and, **#3 CONFERENCE WITH LEGAL COUNSEL ANTICIPATED LITIGATION**, Direction was given to the City Attorney; and, **#4 CONFERENCE WITH REAL PROPERTY NEGOTIATORS**, No reportable action.

Mayor Harper called the meeting to order at 7:00 P.M and announced City Clerk Simonsen would receive ballots until 8:00 P.M. City Clerk Simonsen called the roll.

Present: Council Members Wilson, Ogorchock, Tiscareno, Rocha and Mayor Harper

PLEDGE OF ALLEGIANCE

Mayor Harper led the Council and audience in the Pledge of Allegiance.

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Councilmember Ogorchock announced in honor of Veteran's Day, Antioch Animal Services would waive adoption fees for active duty, retired military, Veterans and their dependants from 10:00 A.M. - 5:00 P.M. on November 12, 2016. She reported the Antioch Police Department was participating in *No Shave November* and she challenged residents to match her \$100.00 donation.

Chief Cantando added the City of Antioch was 10th in the nation for the amount of donations received for *No Shave November*. He noted donations could be made through the Antioch Police Department Facebook page or by bringing their cash or checks to the Antioch Police Department.

City Attorney Vigilia, speaking to the issue of holding a Council meeting on an election night explained, this meeting was necessary as there were items on the agenda that were time sensitive.

PUBLIC COMMENTS

Martha Goralka, Antioch resident, thanked the City Council for their service and stated she appreciated that they had indicated if reelected, they would place the Save the Yard proposal on an agenda. She spoke in support of developing solutions for homelessness in Antioch.

Angela DeVictoria, Antioch resident, expressed concern regarding homelessness and how this issue would be addressed with winter coming.

Fred Rouse, Antioch resident, stated he was disappointed Council was holding a meeting on election night. He requested they postpone any decision on agenda items and end the meeting immediately. He stated in the future, he would encourage Council to take action based on input received from the community.

J.R. Wilson thanked Mayor Harper for designating Veteran parking spaces in the City. He announced Veteran's Day festivities would begin at 9:30 A.M. on November 11, 2016 and John McMullen would serve as Grand Marshal as he had been chosen as Antioch Veteran of the Year. He thanked the City for supporting the Veteran's Day event and announced that they would be accepting donations to reach their fundraising goal.

COUNCIL SUBCOMMITTEE REPORTS

Councilmember Rocha thanked everyone who expressed concern regarding her husband's health and reported he was doing well. She also thanked residents for her years of service to the community.

Councilmember Ogorchock reported on her attendance at the East County Water Management Associates meeting.

MAYOR'S COMMENTS

Mayor Harper thanked everyone who exercised their right to vote.

1. COUNCIL CONSENT CALENDAR

A. APPROVAL OF COUNCIL MINUTES FOR OCTOBER 25, 2016

B. APPROVAL OF COUNCIL WARRANTS

C. REJECTION OF CLAIM: WENDELL CELESTINE, JR.

D. APPROVAL OF TREASURER'S REPORT FOR SEPTEMBER 2016

On motion by Councilmember Ogorchock, seconded by Councilmember Tiscareno, the City Council unanimously approved the Council Consent Calendar.

PUBLIC HEARING

2. ADOPTION OF AN INTERIM URGENCY ORDINANCE ESTABLISHING A TEMPORARY MORATORIUM ON NON-MEDICAL MARIJUANA USES WITHIN THE CITY OF ANTIOCH

City Attorney Vigilia presented the staff report dated November 8, 2016 recommending the City Council: 1) Introduce the Interim Urgency Ordinance establishing a temporary moratorium on Non-Medical Marijuana Uses within the City of Antioch by title only; and 2) Adopt the Interim Urgency Ordinance establishing a temporary moratorium on Non-Medical Marijuana Uses. *(A 4/5 vote is required for adoption.)*

City Attorney Vigilia explained the goal of the moratorium was to maintain status quo to give staff and Council time to determine how they would like to proceed. He clarified by law the temporary moratorium could only last for up to 45 days and prior to expiration, staff would come back to Council with a report and, if extended, a notice of public hearing would be required.

Mayor Harper opened the public hearing.

Alanna Everhart, Brentwood resident, Center for Human Development spoke in support of the moratorium on non-medical marijuana uses and reducing youth access to marijuana.

Mayor Harper closed the public hearing.

ORDINANCE NO. 2118-C-S

On motion by Councilmember Ogorchock, seconded by Councilmember Rocha, the City Council unanimously 1) Introduced the Interim Urgency Ordinance establishing a temporary moratorium on Non-Medical Marijuana Uses within the City of Antioch by title only; and 2) Adopted the Interim Urgency Ordinance establishing a temporary moratorium on Non-Medical Marijuana Uses.

3. APPEAL OF PLANNING COMMISSION APPROVAL OF DELTA COURTYARD APARTMENTS AFFORDABLE HOUSING (UP-15-16)

Councilmembers Tiscareno and Ogorchock stated they were Real Estate Agents who worked with Ralph Garrow who had a vested interest in the Delta Courtyard Apartments project. They noted he was not their Broker; therefore, there would be no conflict of interest in review of the appeal.

Director of Community Development Ebbs presented the staff report dated November 8, 2016 recommending the City Council adopt the Resolution granting the appeal to allow for deferral of development impact fees until just prior to the issuance of certificates of occupancy, but denying the remaining requests.

Mayor Harper opened the public hearing.

Bill Spann presented a fly through video of the project.

In response to Mr. Spann, Director of Community Development Ebbs explained the Police Services Community Finance District (CFD) had been applied to multiple projects prior to the formal submittal of an application for this project.

Bill Spann, Pacific West Communities, explained that they became aware of the CFD and the Measure O Tax Assessment a day before the Planning Commission meeting. He stated had they known prior to that, they would have realized it was not financially feasible to move forward with the application. He stated without cooperation from the City on filling the gap with the fees and assessments, the project would be financially infeasible and the property would no longer be an affordable housing site. He reported this site was designated as a Difficult Development Area (DDA) which would generate \$2.2M in additional tax credit equity; however, if they could not start construction by early 2017, the designation would be lost. He clarified they were a for-profit developer; however, the project would be managed by a non-profit, thereby qualifying it for welfare exemption and property tax waivers; essentially making it a non-profit development. He discussed the project benefits and urged the Council to take them under consideration in making their decision on the appeal.

In response to Mayor Harper, Mr. Spann explained with the CFD and the Measure O Tax Assessment fees, operating expenses would be much higher and they could not borrow as much money as they had projected, equating to a shortage of \$1.2M.

City Clerk Simonsen announced the Power point presentation and a letter from the Department of Housing and Community Development Division of Housing Policy Development dated November 3, 2016 were provided to Council, staff, and copies were available in Chamber Chambers for the public.

Nancy Fernandez, Antioch resident, urged Council not to grant the exemption for CFD and the Measure O Tax Assessment fees noting it would set precedence and go against what had been voted on by the public.

Lynette Solario, Antioch resident, expressed concern the project had not provided sufficient parking spaces. She noted this was a for-profit development and the City of Antioch could not afford to subsidize the project.

Frederick Rouse, Antioch resident, stated if the City loaned the developer money, there should be interest paid on the money forgiven.

Mike Serpa, stated he was the owner of the subject site and part owner of the Aviano project that created the CFD. He reported they did not believe the budget had been calculated correctly for the CFD. He explained that this location had been a challenge and Pacific West Communities had brought forward a beautiful project with complex financing that should be exempt from the Landlord Tax. He requested Council consider the benefits of the project and approve their proposal.

In response to Councilmember Rocha, Mr. Spann stated they would attempt to add a gate to the property.

Mayor Harper closed the public hearing.

In response to Councilmember Rocha, Chief Cantando explained the area did not generate a high call volume for Antioch Police Department.

Director of Community Development Ebbs explained the current site plan would not allow for a gate that would provide adequate room for vehicles to stage out of traffic or turn around to exit.

In response to Councilmember Tiscareno, Director of Community Development Ebbs reiterated the management entity was a non-profit but the underlying ownership was a for-profit.

Councilmember Ogorchock expressed concern the project had not provided adequate parking for residents and stated community outreach should have been conducted with residents in the Lake Alhambra neighborhood.

Following discussion, Council majority discussed the importance of the project complying with the City's requirement for the CFD and the Measure O Tax Assessment fees.

Councilmember Rocha stated she had hoped the City could resolve the issues with the applicant and she would be voting against the following motion.

Councilmember Tiscareno stated he hoped the project would move forward.

RESOLUTION NO. 2016/117

On motion by Councilmember Ogorchock, seconded by Councilmember Wilson, the City Council unanimously approved the differed development impact fees, denied the reduced police CFD participation fees, and denied the business license exemption. The motion carried the following vote:

Ayes: Wilson, Ogorchock, Tiscareno, Harper

Noes: Rocha

COUNCIL REGULAR AGENDA

4. RESOLUTION APPROVING PROSSERVILLE PARK PLAYGROUND DEVELOPMENT FOR THE FISCAL YEAR 16-17 PARK FACILITIES CAPITAL IMPROVEMENT

PROJECT; APPROVING THE RECOMMENDED PLAYGROUND DESIGN AND AMENDING THE FISCAL YEAR CIP BUDGET BY \$50,000

Director of Parks and Recreation Kaiser and Deputy Director of Public Works Bechtholdt presented the staff report dated November 8, 2016 recommending the City Council adopt a resolution approving Prosserville Park playground development for the Fiscal Year 16-17 Park Facilities Capital Improvement Project; approving the recommended playground design and amending the FY 16-17 CIP Budget to include additional funding in the amount of \$50,000 from the Delta Fair Fund. She corrected the request for additional funding to \$50,858.

Nakita Crawford, Chipu Washington, Yerenia Zarate, Freddy Leon and Rhea Elina Laughlin representing East County Regional Group (ECRG), John Jones representing Contra Costa Child Care Council and Denise Woods speaking on behalf of Martin Santiago representing Pittsburg Independent Learning Center spoke in support of the proposal for Prosserville Park and discussed the importance of allocating funding for the basketball courts at Contra Loma Estates Park, as soon as possible.

Heather Emswiler, Skyhawks, spoke in support of the City funding basketball courts at Contra Loma Estates Park, as soon as possible.

Derrick Davis, Antioch resident, spoke in support of the City funding basketball courts, surveillance cameras, improved lighting and proper signage at Contra Loma Estates Park.

Molly Bergstrom, Kaiser Permanente, provided written comment in support of the City funding basketball courts at Contra Loma Estates Park.

Bob Liles, Antioch resident, gave an update on the disc golf course project and stated they hoped to move forward with their plans to install the course this winter.

In response to Councilmember Rocha, City Manager Duran stated Finance Director Merchant could look into the remaining Children's Fund for funding the basketball courts.

RESOLUTION NO. 2016/118

On motion by Councilmember Tiscareno, seconded by Councilmember Rocha, the City Council unanimously adopted a resolution approving Prosserville Park playground development for the Fiscal Year 16-17 Park Facilities Capital Improvement Project; approving the recommended playground design and amending the FY 16-17 CIP Budget to include additional funding in the amount of \$50,858 from the Delta Fair Fund through a Purchase Order to Miracle Play Systems.

5. FORMATION OF THE PROPOSED CITY OF ANTIOCH COMMUNITY FACILITIES DISTRICT NO. 2016-01 (POLICE PROTECTION)

Assistant City Engineer Filson presented the staff report dated November 8, 2016 recommending 1) The City Council adopt the Resolution approving a Statement of Local Goals and Policies Concerning the use of the Mello-Roos Community Facilities Act of 1982. 2) The City Council

adopt the Resolution of Intention of the City Council of the City of Antioch with Respect to Formation of the Proposed City of Antioch Community Facilities District No. 2016-01 (Police Protection).

RESOLUTION NO. 2016/119

RESOLUTION NO. 2016/120

On motion by Councilmember Ogorchock, seconded by Councilmember Wilson, the City Council unanimously 1) Adopted the Resolution approving a Statement of Local Goals and Policies Concerning the use of the Mello-Roos Community Facilities Act of 1982. 2) Adopted the Resolution of Intention of the City Council of the City of Antioch with Respect to Formation of the Proposed City of Antioch Community Facilities District No. 2016-01 (Police Protection).

6. FORMATION OF THE PROPOSED EAST LONE TREE SPECIFIC PLAN BENEFIT DISTRICT

Assistant City Engineer Filson presented the staff report dated November 8, 2016 recommending the City Council adopt the Resolution of Intention of the City Council of the City of Antioch to Consider the Formation of the East Lone Tree Specific Plan Benefit District.

RESOLUTION NO. 2016/121

On motion by Councilmember Tiscareno, seconded by Councilmember Ogorchock, the City Council unanimously adopted the Resolution of Intention of the City Council of the City of Antioch to Consider the Formation of the East Lone Tree Specific Plan Benefit District.

PUBLIC COMMENTS - None

STAFF COMMUNICATIONS - None

COUNCIL COMMUNICATIONS

Councilmember Wilson requested staff agendize a discussion on the formation of a Fire District.

Councilmember Rocha requested staff request the Parks and Recreation Commission determine if there is a need for basketball courts in City's Park facilities.

ADJOURNMENT

With no further business, Mayor Harper adjourned the meeting at 9:17 P.M. to the next regular Council meeting on November 22, 2016.

Respectfully submitted:

Kitty Eiden

KITTY EIDEN, Minutes Clerk