

ANTIOCH CITY COUNCIL

Regular Meeting
7:00 P.M.

September 8, 2009
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).

2) **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION** – Evangelho v. City of Antioch; William G. McCullough Co., Contra Costa Superior Court, Case 07-02205; City of Antioch v. Evangelho et al., Contra Costa Superior Court, Case Nos. C06-02345, C06-02391, C06-02392. This Closed Session is authorized by California Government Code §54956.9(a).

3) **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION** – Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9: Two potential cases.

Mayor Davis called the meeting to order at 7:13 P.M. and City Clerk Martin called the roll.

Present: Council Members Kalinowski, Rocha, Moore, Parsons and Mayor Davis

PLEDGE OF ALLEGIANCE

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

PROCLAMATIONS

California Coastal Cleanup Day, September 19, 2009
Falls Prevention Awareness Week, September 21 – 27, 2009
Antioch Senior Center Month, September 2009

On motion by Councilmember Moore, seconded by Councilmember Rocha, the Council unanimously approved the proclamations.

Councilmember Rocha presented the proclamation proclaiming September 19, 2009 as California Coastal Cleanup Day to RC Ferris, Recycling Coordinator, who announced the event would be held at the Antioch Marina and Red Caboose September 19, 2009 at 9:00 A.M. She acknowledged those who had provided donations. Contact information was given.

Councilmember Kalinowski presented the proclamation proclaiming September 21-27, 2009 as Falls Prevention Awareness Week to Jenny Lind, representing Senior Helpers who thanked the City Council for the proclamation on behalf of the Fall Prevention Program and Fall

Prevention Coalition of Contra Costa County. She provided a packet of information to the City Council and contact information was given.

Councilmember Moore presented the proclamation proclaiming September 2009 as Antioch Senior Center Month to Brenda Perry and members of the Senior Center Board of Directors who thanked the City Council for the proclamation.

City Attorney Nerland reported the City Council had been in Closed Session and provided the following report: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION – Administrative Civil Liability Complaint No. R5-2006-0512, direction was given to staff, and: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION – Evangelho v. City of Antioch, Council unanimously approved the settlement, and: CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9: Two potential cases no reportable action on the first case and the second case was not discussed.

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Carol Louisell, Program Manager, Caring Hands Volunteer Caregivers Program gave a brief description of their program and announced a training session would be held on September 25, 2009 in Brentwood for anyone wishing to volunteer. Contact information was given.

Devi Lanphere, Antioch Chamber of Commerce C.E.O., announced they were accepting applications for teams who wish to participate in the *Great Race of Antioch*, scheduled to take place on September 26, October 3 and October 10, 2009. She thanked the sponsors and provided contact information.

Walter Ruelig, representing the Knights of Columbus, announced the *Police and Fire Fighter of the Year Luncheon* would be held at on September 19, 2009 at 12:00 P.M. at the Lone Tree Golf Course Event Center.

Donna Wilson announced the *9/11 Freedom Walk* would be taking place on September 11, 2009 at the Somersville Towne Center Mall at 5:45 P.M. Contact information was given. Additionally, she announced the *End of Summer Splash* would be held on September 19, 2009 from 1:00-10:00 P.M. at Prewett Water Park with proceeds to benefit the Officers Vincent and Geizer.

PUBLIC COMMENTS

Sophie Damerel, representing Generation Greens Contra Costa County Climate Leaders Program, provided the City Council with written information on their program and encouraged the City to complete a greenhouse gas inventory and a climate action plan. She requested the City respond within the next 10 days with updates for their website regarding those issues.

Mary Dodson, Antioch resident, spoke to blighted areas in Antioch and threats she received when attempting to dispose of refuse. She expressed concern she was not allowed the allotted three minutes for public comment at a previous meeting.

Ken Lee, Antioch resident, spoke to previous concerns related to the Antioch Auto Dealership, an ordinance enforcing conditions of approval, copper recycling programs and traffic calming measures. He also announced the U.S Army American Flying Tigers Reunion would be held September 9-12, 2009 at the Oakland Marriot Renaissance Hotel. He suggested the City post public hearing notifications on project sites and encouraged the community to participate in (CERT) Community Emergency Response Team classes,

Nancy Fernandez, Antioch resident, expressed concern the City Council did not attend the Mayor's press conference held on Sept 4, 2009.

Danielle Stoumbos, Antioch resident, expressed her concern regarding the homeless population in the City and questioned if the City had a program she could be involved in and if not, was there any recommendations for ways citizens could assist those who may need help.

Robert Kalafate, Antioch resident, spoke to code enforcement issues as it related to foreclosures and the effectiveness of a code enforcement programs such as one in Chula Vista California.

Allen Payton, Antioch resident, commended Mayor Davis for the effectiveness of his press conference and the trust fund for the Dugard family,

Hilda Parnum, resident of Diamond Ridge, spoke to blighted occupied residences in her neighborhood as well as litter in the public areas. She was attempting to organize neighbors to conduct trash cleanup and questioned if the City would be willing to assist them.

COUNCIL RESPONSE TO PUBLIC COMMENTS

Councilmember Rocha thanked the public for their participation in the cleaning up of areas in the City.

Chief Hyde announced a Neighborhood Sweep would be held on September 12, 2009 in Eagles Ridge Park from 9:00 - 11:00 A.M.

Mayor Davis announced the Graffiti Task Force was seeking volunteers from the community to participate in removing graffiti throughout the community. He requested additional information from Mr. Kalafate regarding the details of the Chula Vista Code Enforcement program.

Councilmember Kalinowski announced the *End of Summer Splash* would be held on September 19, 2009 and he recognized the sponsors of the event. He noted the fund raising efforts include operations and expenses for Prewett Water Park and proceeds to benefit Officers Vincent and Geizer. He reported he was on vacation and therefore unable to attend Mayor Davis's press conference.

Councilmember Moore reported the Residential Inspection Program had been discontinued due to economic issues and agreed program needs, should addressed when revenue is increased. He encouraged the community to become involved in reducing blight in their neighborhoods.

Mayor Davis announced the Dugard Family Trust Fund had been established at Bank of the West and he thanked all those who have already donated.

MAYOR'S COMMENTS

1. ORAL PRESENTATION BY BART REPRESENTATIVE REGARDING e-BART FUNDING ISSUES

Ellen Smith, representing BART, speaking on behalf of Board Member Joel Keller gave a brief update on the funding sources for the eBART project and efforts to bring it back to a fully funded status by: 1) Lowering eBART costs by evaluating capital costs; 2) Transfer of Highway 4 savings from low bids, and; 3) Transfer of future East County Measure J funds to the eBART project. She stated if the project regained full funding, a spring ground-breaking would be anticipated.

2. COUNCIL CONSENT CALENDAR

A. APPROVAL OF COUNCIL MINUTES FOR AUGUST 11, 2009

B. APPROVAL OF COUNCIL WARRANTS

C. APPROVAL OF TREASURER'S REPORT FOR JULY 2009

D. REJECTION OF CLAIMS

1. Qiana Brown 08/09-1840 (property loss)
2. Sergio DiPasquale 09/10-1904 (property damage)
3. Latasha Burleson 09/10-1899 (property damage)
4. Vernita Johnson 09/10-1908 (property damage)

E. ORDINANCE 2034-C-S ADDING ARTICLE 3 TO CHAPTER 5 OF TITLE5, "STATE FRANCHISE HOLDERS PROVIDING VIDEO SERVICE" TO THE ANTIOCH MUNICIPAL CODE TO ESTABLISH FRANCHISE AND PEG FEES, AUDIT RIGHTS AND CUSTOMER SERVICE PENALTIES FOR STATE FRANCHISE HOLDERS PROVIDING VIDEO SERVICES (Introduced 8/11/09)

F. RESOLUTION NO. 2009/79 OPPOSING DEVELOPMENT OF ANY WATER CONVEYANCE FACILITY THAT PROPOSES ISOLATION OF EXISTING DELTA OUTFLOWS

- G. **RESOLUTION NO. 2009/80 TO SUMMARILY VACATE A SURPLUS PORTION OF FOURTH AND 'G' STREET RIGHT-OF-WAY AND AUTHORIZE THE CITY MANAGER TO EXECUTE ANY ADDITIONAL DOCUMENTS NECESSARY TO VACATE AND QUITCLAIM ANY INTEREST TO THE PROPERTY OWNER OF BASES LOADED (PW 371-RA-49)**
- H. **CONSIDERATION OF BIDS FOR THE HILLCREST AVENUE PAVEMENT OVERLAY (P.W. 392-24)**
- I. **RESOLUTION NO. 2009/81 ACCEPTING WORK AND AUTHORIZING THE CITY ENGINEER TO FILE A NOTICE OF COMPLETION FOR THE SLATTEN RANCH TRAFFIC SIGNAL (P.W. 636-5)**
- J. **RESOLUTION NO. 2009/82 APPROVING THE ADJUSTMENT IN THE MASTER FEE SCHEDULE FOR FIELD RENTALS AND DANCE RECITAL RENTALS**
- K. **RESOLUTION NO. 2009/83 EXTENSION TO A PREVIOUSLY APPROVED OUT OF AGENCY SERVICE AGREEMENT WITH PG&E FOR THE PG&E POWER PLANT CURRENTLY IN OPERATION LOCATED AT 3225 WILBUR AVENUE**
- L. **ACKNOWLEDGE AND APPROVE CITY RESPONSES TO GRAND JURY REPORTS NO. 0907 AND NO. 0909**

On motion by Councilmember Rocha, seconded by Councilmember Parsons, the Council unanimously approved the Council Consent Calendar with the exception of Item A which was removed for further discussion.

Councilmember Rocha stated the approval of Item F, showed the community the City's position on water issues.

Item A – Councilmember Kalinowski pulled item A for a separate vote.

On motion by Councilmember Moore, seconded by Councilmember Parsons, the City Council approved item A. The motion carried the following vote:

Ayes: Davis, Rocha, Moore, Parsons

Abstain: Kalinowski

PUBLIC HEARINGS

- 3. **STREET LIGHT AND BUILDING ENERGY RETROFIT PROGRAM WITH HONEYWELL INCORPORATED** (Continued from 6/9, 7/14 and 7/28/09)

On motion by Councilmember Moore, seconded by Councilmember Rocha, the City Council unanimously continued this item to September 22, 2009.

4. AMENDMENTS TO THE HILLCREST STATION AREA SPECIFIC PLAN BOUNDED BY HILLCREST AVE ON THE WEST, HWY 4 ON THE SOUTH, HWY 160 ON THE EAST, AND OAKLEY ROAD ON THE NORTH

Economic Development Deputy Director Carniglia presented the staff report dated August 27, 2009 recommending the City Council: 1) adopt the resolution finding the Negative Declaration adequate to address the environmental impacts of the proposed amendments to the Hillcrest Station Area Specific Plan, and; 2) adopt the resolution approving the amendments to the Hillcrest Station Area Specific Plan.

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

RESOLUTION NO. 2009/84
RESOLUTION NO. 2009/85

On motion by Councilmember Kalinowski, seconded by Councilmember Rocha, the City Council unanimously: 1) Adopted the resolution finding the Negative Declaration adequate to address the environmental impacts of the proposed amendments to the Hillcrest Station Area Specific Plan, and: 2) Adopted the resolution approving the amendments to the Hillcrest Station Area Specific Plan.

COUNCIL REGULAR AGENDA

5. MIRANT MARSH LANDING GENERATING STATION PROJECT

Economic Development Director Bjerke presented the staff report dated September 2, 2009 recommending the City Council: 1) adopt the resolution authorizing the City Manager to execute an agreement regarding annexation between the City of Antioch and Mirant Delta, LLC; and 2) adopt the resolution authorizing the City Manager to execute a Project Agreement between the City of Antioch and Mirant Marsh Landing, LLC.

John Chillemi, representing Mirant California, expressed his appreciation to the City Council for their feedback and support of the conceptual project. Additionally, he thanked staff for working with them to meet the needs of the City.

Mayor Davis voiced his appreciation to Mr. Chillemi for working cooperatively with the City.

Councilmember Parsons thanked Mirant for their donation to the Hapgood Theatre.

Councilmember Rocha thanked Mr Chillemi for the partnership and support of the City.

Councilmember Kalinowski thanked Mirant for their cooperation.

RESOLUTION NO. 2009/86
RESOLUTION NO. 2009/87

On motion by Councilmember Moore, seconded by Councilmember Parsons, the City Council unanimously: 1) Adopted the resolution authorizing the City Manager to execute an agreement regarding annexation between the City of Antioch and Mirant Delta, LLC, and; 2) Adopted the resolution authorizing the City Manager to execute a Project Agreement between the City of Antioch and Mirant Marsh Landing, LLC.

6. DRAFT CITYWIDE DESIGN GUIDELINES

Senior Planner Morris presented the staff report dated September 3, 2009 and gave a brief overhead presentation recommending the City Council: 1) Provide staff with direction and feedback regarding the content of the draft Citywide Design Guidelines, and; 2) Adopt the resolution of intention to initiate an amendment to Title 9, Chapter 5 of the Antioch Municipal Code in order to adopt the Citywide Design Guidelines

Mayor Davis requested staff send thank you letters to all members of the subcommittee who participated in the creation of the document.

Ken Lee, Antioch resident, discussed the importance of consistency in landscaping requirements and parking lot plans.

RESOLUTION NO. 2009/88

On motion by Councilmember Rocha, seconded by Councilmember Parsons, the City Council unanimously: 1) Provided staff with direction and feedback regarding the content of the draft Citywide Design Guidelines; and 2) Adopted the resolution of intention to initiate an amendment to Title 9, Chapter 5 of the Antioch Municipal Code in order to adopt the Citywide Design Guidelines

PUBLIC COMMENTS

William LeRoy, Antioch resident, expressed his concern for the power plant causing health issues for residents. He urged the City Council to draft a letter in opposition to the peripheral canal.

Ken Lee, Antioch resident, offered suggestions to increase the safety of residents on the Graffiti Task Force.

STAFF COMMUNICATIONS

City Manager Jakel announced a joint meeting of the Antioch School Board and the City Council would be held at 7:00 P.M. on September 15, 2009, at Lone Tree Elementary School. a regular Council meeting on September 22, 2009 and the Employee Appreciation lunch funded by donations would be held on October 14, 2009 at the Lone Tree Golf Course. He stated he would be involved with a municipal bankruptcy bill which was an attempt by the State to restrict municipalities' financial endeavors.

COUNCIL COMMUNICATIONS

Councilmember Moore proposed the City Council consider adding COMMITTEE REPORTS as an agenda item. Following discussion Mayor Davis stated he would work with staff to put the item on a future agenda.

Councilmember Kalinowski reported there had not been an EPAC meeting since June.

Councilmember Moore encouraged the community to patronize Bases Loaded Restaurant.

Councilmember Parsons congratulated K2 Construction on their ribbon cutting event and reported her participation in Wesley Resorio Eagle Scout project. She further stated, while she had talked to Mayor Davis prior to his press conference, she was unable to attend. .

With no further business, Mayor Davis adjourned the Council meeting at 8:43 P.M., to Closed Session.

Respectfully submitted:

L. JOLENE MARTIN
City Clerk

Approved:

JAMES D. DAVIS, Mayor

Attest:

L. JOLENE MARTIN
City Clerk