

ANTIOCH CITY COUNCIL

Regular Meeting
7:00 P.M.

March 13, 2012
Council Chambers

6:30 P.M. - CLOSED SESSION

1. CONFERENCE WITH LABOR NEGOTIATOR – City designated representatives: Deborah McHenry and Glenn Berkheimer; Employee organizations: Public Employees' Union Local No. 1; Antioch Police Officers' Association. This Closed Session is authorized by California Government Code §54957.6.

2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – Initiation of Litigation pursuant to subdivision (c) of §54956.9 (2 cases).

Mayor Pro Tem Harper called the meeting to order at 7:06 P.M., dedicated in memory of Antioch resident, Charlie Ochoa. City Clerk Skaggs called the roll.

Present: Council Members Kalinowski, Rocha, Agopian and Mayor Pro Tem Harper
Excused: Mayor Davis

City Attorney Nerland reported the City Council had been in Closed Session and gave the following report: #1 Conference with Labor Negotiator – this item was placed on the Consent Calendar for action, #2 Conference with Legal Counsel – Anticipated Litigation – the City Council gave authority to initiate litigation of one case.

“City Attorney Nerland suggested that Mayor Pro Tem Harper ask for a motion to put Urgency Item L on the Council Consent Calendar as described in the staff report on the Council dais and available to the public. This item came to the attention of the City after the preparation of the Agenda in that the California Department of Boating and Waterways needs another resolution by the City Council to accept grant funds for the Marina. As the funds are needed immediately to complete the project, it is important for the Council to adopt the resolution now.”

On motion by Councilmember Rocha, seconded by Councilmember Agopian, the Council present unanimously placed Urgency Item L on the Council Consent Calendar.

PLEDGE OF ALLEGIANCE

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

Mayor Pro Tem Harper announced Mayor Davis was in Washington D.C., representing the City of Antioch.

PROCLAMATIONS

Doctor's Day, March 30, 2012
100th Anniversary, Girl Scout Week, March 11-17, 2012

A

03/27/12

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

Councilmember Kalinowski presented the proclamation proclaiming March 30, 2012, as *Doctor's Day* to Dr. Brion Pearson with Sutter Delta, Donald Waters with American Medical Association, and Dina Osakue, Community Relations Director with The Commons at Dallas Ranch, who accepted the proclamation and thanked the City Council for the recognition.

Councilmember Rocha presented the proclamation proclaiming March 11-17, 2012, as *100th Anniversary Girl Scout Week* to several members of the Girl Scouts of America who introduced themselves and announced their rank.

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Walter Ruelig, and members of the 4th of July Committee, gave a brief update of their fundraising efforts. Contact information was provided.

Mayor Pro Tem Harper congratulated Mr. Ruelig who won the Chamber of Commerce Lifetime Achievement Award.

Councilmember Agopian thanked the 4th of July Committee for their hard work organizing the event.

PUBLIC COMMENTS

Bernadette Calvert and Dora Hearn, Antioch residents, discussed an incident that occurred which resulted in an arrest, which they felt was unjustified.

Mayor Pro Tem Harper urged Ms. Calvert and Ms. Hearn to discuss this issue with Captain McConnell.

Councilmember Rocha directed Ms. Hearn to seek the assistance of STAND and the International Institute.

Nickole and Andy, Antioch residents, expressed concern regarding the curb cut access on 18th Street near the Antioch library was too narrow and unsafe for wheelchair access.

Mayor Pro Tem Harper directed City Engineer Bernal look into the situation.

Dominic Knight announced April is Autism Awareness Month and requested the City join "Autism Speaks" in celebrating *World Autism Day* on April 2, 2012.

Howard Canari, Brentwood resident, requested BART officials consider moving eBART to the Mococo rail line easement.

Greg Enholm, County Library Commissioner, requested the Council agendaize an item to discuss having Antioch GenOn Gateway Center for Learning participate in a joint-use facility arraignment with the Los Medanos College Brentwood Center/Campus Library.

City Manager Jakel stated he would report back to Council as to the County Library and Community College District's direction was, regarding this matter.

Josh Sullivan, Antioch resident, discussed escalating crime in his neighborhood and an incident which resulted in his vehicle being burglarized.

Mayor Pro Tem Harper encouraged Mr. Sullivan to attend the Town Hall Meeting on March 22, 2012, to receive information on implementing a Neighborhood Watch Program for his neighborhood.

Councilmember Kalinowski stated the City would work through the implementation of retrieving stolen items.

COUNCIL SUBCOMMITTEE REPORTS

Councilmember Agopian reported on his attendance at the TRANSPLAN Meeting.

Councilmember Rocha reported on her attendance at the TRANSPLAN Meeting and thanked Councilmember Kalinowski for representing the residents of Antioch.

Councilmember Kalinowski reported on various transportation related issues and spoke to the City's desire to locate future BART extensions further south of the Laurel Road interchange.

MAYOR'S COMMENTS - None

PRESENTATION

Ellen Smith, eBART Project Manager, gave an overhead presentation of the eBART construction progress and next segment study.

Councilmember Agopian thanked Ms. Smith for the presentation and reiterated the City's desire to locate future BART extensions south of Laurel Road and Lone Tree Way.

In response to Mayor Pro Tem Harper, Ms. Smith reviewed the project stabilization agreement as it relates to local hiring.

COUNCIL CONSENT CALENDAR

A. APPROVAL OF COUNCIL MINUTES FOR FEBRUARY 28, 2012

B. APPROVAL OF COUNCIL WARRANTS

- C. **ADOPTION OF AN ORDINANCE 2054 C-S AMENDING TITLE 5 OF THE ANTIOCH MUNICIPAL CODE BY ADDING A NEW CHAPTER 11 PERTAINING TO THE LICENSING PROCEDURES AND REGULATIONS FOR COMPUTER GAMING AND INTERNET ACCESS BUSINESSES (*Introduced on 02/28/12*)**
- D. **ADOPTION OF AN ORDINANCE 2055 C-S AMENDING CHAPTER 15 OF TITLE 8 "FIRE CODE" OF THE ANTIOCH MUNICIPAL CODE, ADOPTING BY REFERENCE ORDINANCE NO. 2010-15 OF THE CONTRA COSTA COUNTY FIRE PROTECTION DISTRICT AND THE 2010 CALIFORNIA FIRE CODE WITH AMENDMENTS (*Introduced on 02/28/12*)**
- E. **RESOLUTION 2012/15 OF THE CITY COUNCIL OF THE CITY OF ANTIOCH SUPPORTING HEALTHY EATING AND LIVING CHOICES**
- F. **RESOLUTION 2012/16 APPROVING LETTER OF UNDERSTANDING FOR THE ANTIOCH POLICE OFFICERS' ASSOCIATION**
- G. **RESOLUTION 2012/17 ACCEPTING WORK AND AUTHORIZING THE DIRECTOR OF CAPITAL IMPROVEMENTS TO FILE A NOTICE OF COMPLETION FOR THE PUTNAM STREET/CONTRA LOMA BOULEVARD/HILLCREST AVENUE PAVEMENT REHABILITATION (P.W. 392-26)**
- H. **PROPOSED SETTLEMENT WITH J.W. EBERT CORP., FOR THE DOWNTOWN TRUNK SEWER IMPROVEMENTS, PHASE 3 (P.W. 514-S3)**
- I. **FIFTH AMENDMENT TO THE CONSULTANT SERVICE AGREEMENT FOR PROFESSIONAL SERVICES WITH FLOW SCIENCE INCORPORATED**
- J. **CONSIDERATION OF BIDS FOR THE WATER MAIN REPLACEMENT AT VARIOUS LOCATIONS (P.W. 503-13)**
- K. **RESOLUTION 2012/18 ACCEPTING WORK AND AUTHORIZING THE DIRECTOR OF CAPITAL IMPROVEMENTS TO FILE A NOTICE OF COMPLETION FOR THE HILLCREST AVENUE WIDENING, PHASE II PROJECT (P.W. 276-10)**
- L. **URGENCY ITEM - RESOLUTION 2012/19 ACCEPTING A GRANT IN THE AMOUNT OF \$495,000 FROM THE DEPARTMENT OF BOATING AND WATERWAYS FOR THE IMPROVEMENTS OF THE MARINA BOAT LAUNCHING FACILITY (P.W. 523-16)**

City Attorney Nerland reported the City Council had received a revised recommendation for Item K, which was under consideration. Additionally, she gave a brief explanation of Consent Calendar Item L.

On motion by Councilmember Agopian, seconded by Councilmember Rocha, the Council unanimously approved the Council Consent Calendar with the exception of Items C and E, which were removed for further discussion.

Item C - Councilmember Kalinowski, for the record, explained that this was a regulatory item; however, the City did not have formal notification regarding the legality of the Computer Gaming and Internet Access Businesses. He noted the Item was contrary to what he viewed as legal activity and therefore he would not be supporting the approval of Item C.

City Attorney Nerland gave a brief overview of the ordinance and noted there had been discussions with the District Attorney's and Attorney General's office urging them to provide public and formal guidance to Cities regarding these uses.

Councilmember Agopian voiced his support for regulating these types of businesses through the ordinance.

On motion by Councilmember Rocha, seconded by Councilmember Agopian, the Council approved Item C. The motion carried the following vote:

Ayes: Harper, Rocha, Agopian

Noes: Kalinowski

Item E – Councilmember Rocha gave a brief overview of the healthy living campaign.

On motion by Councilmember Rocha, seconded by Councilmember Kalinowski, the Council unanimously approved Item E.

PUBLIC HEARING

2. RESIDENTIAL DEVELOPMENT ALLOCATION (RDA) ORDINANCE EXTENSION (Z-12-01) THE PLANNING COMMISSION RECOMMENDED ADOPTION OF THE PROPOSED ORDINANCE BY A 6-0 VOTE WITH ONE COMMISSIONER ABSENT ON MARCH 7, 2012

City Attorney Nerland reported the City had received a letter from James Colopy on behalf of Mr. Seeno, which was delivered at 4:55 P.M. today, regarding the extension of the RDA ordinance.

Director of Community Development Wehrmeister presented the staff report dated March 8, 2012, recommending the City Council: 1) Motion to introduce the ordinance by title only; 2) Motion to introduce an ordinance to amend Municipal Code §9-5.4012 in order to extend the sunset date of the Residential Development Allocation Ordinance to May 1, 2013.

Mayor Pro Tem Harper opened the public hearing.

James Colopy, representing Discovery Builders, reviewed concerns as outlined in the letter submitted and dated March 13, 2012.

In response to Councilmember Kalinowski, Mr. Colopy stated his client had a number of projects affected by the RDA process and noted the program did not include standards and rules for developers.

Councilmember Kalinowski stated he was confident staff would come forward with an ordinance that would be appropriate and fit the model other communities use. In the meantime, should someone decide they would want to develop a project in the community, they would need to meet the standards and expectations of the City Council and offset their impact for building in Antioch.

In response to Mayor Pro Tem Harper, staff indicated they would look at the state law issues and motivation behind Mr. Colopy's letter.

On motion by Councilmember Rocha, seconded by Councilmember Kalinowski, the Council unanimously 1) Introduced the ordinance by title only; 2) Introduced an ordinance to amend Municipal Code §9-5.4012 in order to extend the sunset date of the Residential Development Allocation Ordinance to May 1, 2013.

Mayor Pro Tem Harper closed the public hearing.

COUNCIL REGULAR AGENDA

3. MELLO ROOS FUNDING PRIORITIES

Deputy Director of Community Development Graham presented the staff report dated March 1, 2012, recommending the City Council motion to provide recommendations for expending remaining funds.

Councilmember Agopian suggested partnering with a private entity to fund the reader board for the community center.

Councilmember Kalinowski stated if the burrowing owl issue for the open parcel is a concern, staff would need to bring back a policy decision regarding the use of that land.

Director of Community Development Wehrmeister clarified the City is not required to mitigate onsite for the burrowing owls.

Following discussion, City Manager Jakel concluded it was Council direction this evening to conduct a feasibility study for turf/sport fields including a sand volleyball court and hold a meeting with the County Library regarding the expansion of services at the existing center.

On motion by Councilmember Agopian, seconded by Councilmember Kalinowski, the Council made the following recommendations 1) Option #1 - Allocating \$200,000 for the needs at the existing facility and, 2) Conduct a feasibility study for multi-use sports fields and sand volleyball court and, 3) Meet with the County Library regarding the expansion of library services and, 4) Contact the Park District regarding completing the landscaping along the trail fronting Lone Tree Way.

Mayor Pro Tem Harper declared a recess at 8:58 P.M. The meeting reconvened at 9:05 P.M. with all Councilmembers present with the exception of Mayor Davis.

4. NELSON RANCH PARK CONSTRUCTION UPDATE (PW 547-P)

Director of Public Works/City Engineer Bernal presented the staff report dated March 7, 2012, recommending the City Council motion to receive the staff report, public comment and provide staff direction on modifications, if any, to the Nelson Ranch Park.

In response to Councilmember Agopian, Director of Public Works/City Engineer Bernal stated it would cost approximately \$200,000 to remove and rebuild the play area in a different location.

Julie Young, Antioch resident, speaking on behalf of Chris Young, Darlene and William Moore, Stacy Christopher and Shannon Cook and Martin and Mary Penilla, displayed several photos of the park for the City Council. She expressed concern the negative impacts had not been addressed or mitigated. She requested a meeting with a representative of the City Council and staff to discuss possible solutions.

Chris Young added the elevation of the park is several feet higher than the wall, and headlights shine directly into their property. He voiced his support for relocating the shade structures and picnic tables.

Following discussion, the City Council agreed to mitigate the neighbors' concerns by removing the shade structures and picnic tables and increasing the wall across the lots in question. Mayor Pro Tem Harper stated he would have preferred to add lattice work to existing fencing; however, he would support the City Council in their position to replace the masonry wall. Council consensus agreed access to the park should remain open and the tot lot should remain in place.

Councilmember Kalinowski requested the masonry wall be completed prior to park opening to the public and benches be installed adjacent to the play structure.

On motion by Councilmember Kalinowski, seconded by Councilmember Agopian, the Council unanimously directed staff to make the following modifications to the Nelson Ranch Park;

- 300 linear foot of fencing shall be removed and replaced with an approximate 8 foot high masonry wall.
- Both shade structures, picnic tables, and barbeques shall be removed.
- Should there not be consensus among the property owners of the 300 feet, the fencing item would come back to the City Council for authorization of the lattice work to be completed.
- Access to the park shall remain open with a report back to the City Council 45 days after the park opens to the public.

Mayor Pro Tem Harper thanked Ms. Young for bringing the item before the City Council.

Mayor Pro Tem Harper declared a recess at 10:16 P.M. The meeting reconvened at 10:21 P.M. with all Councilmembers present with the exception of Mayor Davis.

5. HARD HOUSE PROPOSAL BY FRIENDS OF ROSWELL BUTLER HARD HOUSE

Economic Development Analyst Nunnally presented the staff report dated March 7, 2012, recommending the City Council motion to provide direction to Staff on the proposal from the Friends of Roswell Butler Hard House regarding their restoration project and ownership of the Property.

David Brink, President of the Friends of the Roswell Butler Hard House, stated they had agreed to start phase one as volunteers and if they met those goals, then the property would be transferred to the Friends of the Roswell Butler Hard House. He commented that if they do not include the tear down of the rear section of the house in the initial phase, there would be no exposure to the City and obtaining the \$5,000,000.00 million insurance policy would be unnecessary.

Elizabeth Rimbault, representing the Friends of the Roswell Butler Hard House, gave a brief history of their efforts to respond to the City's concerns related to the transfer of the property. She commented they would restore the property for the benefit of the community and with volunteers. She requested the City Council take action to adopt an ordinance declaring the property was not a gift of public funds.

Stan Davis, representing the Friends of the Roswell Butler Hard House, gave a brief history of the property and urged the City Council to turn the property over to their organization so they may begin the process of renovating the building for the community.

Marty Fernandez, Antioch resident, suggested if the plans for the property do not materialize, the property come back to the City and stated he did not support the City providing free water for this facility.

Fred Hoskins, Antioch resident, stated the demands of the City Council had been met by the Friends of the Roswell Butler Hard House and he urged them to turn over, with the condition, that if the house cannot be restored, the property would be returned to the City. He noted the Friends had agreed to be liable for the property when it was transferred.

Councilmember Rocha reported she was in favor of turning the property over to the Friends for redevelopment and in doing so; insurance for the project, would become their responsibility.

City Attorney Nerland gave a brief overview of the insurance issue and noted she agreed with the concept that if the property were transferred over to the Friends, they would be liable.

On motion by Councilmember Kalinowski, seconded by Councilmember Rocha, the Council unanimously directed staff to prepare a purchase and sale agreement with the appraisals, resolution, and deed including the following conditions:

- The House should be rehabilitated and restored and not reconstructed.
- The House should be restored to its original footprint and architecture of 1869 (a rear addition would be removed).

- The House should be owned by the newly formed private non-profit. 501 (c) (3) as this would create the highest financial potential of restoring the property.
- The City of Antioch should transfer title of the Hard House and land to the non-profit with the property to be used for public benefit; and, if the non-profit dissolves anytime in the future, the City would have first right of refusal to take the property back and if declined, the City may turn the property over to the Antioch Historical Society or other appropriate non-profit for future protection.
- Attachment C, item #6 – In turning over this property, the City would not be granting a waiver of any water fees.
- Escrow closing costs and subdivision costs would be deposited in escrow as contingencies.
- Subdivision would need to occur prior to escrow closing.
- There would be no access to the property prior to the close of escrow.

PUBLIC COMMENTS - None

STAFF COMMUNICATIONS

City Manager Jakel announced the following meeting schedule:

- March 22, 2012 - Town Hall Meeting at the Community Center at Prewett Park
- March 26, 2012 – Joint Meeting Antioch Unified School District/City Council at Antioch High School.

COUNCIL COMMUNICATIONS

Councilmember Rocha reported she had a prior commitment to attend the League of California Cities meeting and would be unable to attend the March 22, 2012, Town Hall Meeting. She announced Charlie Ochoa's Memorial Service would be held at 10:00 P.M. on March 19, 2012, at Holy Rosary Church.

ADJOURNMENT

With no further business, Mayor Pro Tem Harper adjourned the meeting at 11:02 P.M. to the next regular Council meeting on March 27, 2012.

Respectfully submitted:

DENISE SKAGGS, City Clerk