

## ANTIOCH CITY COUNCIL

**Special/Regular Meeting**  
**6:00 P.M.**

**May 8, 2012**  
**Council Chambers**

Mayor Pro Tem Harper called the meeting to order at 6:05 P.M., and City Clerk Skaggs called the roll.

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

### **PLEDGE OF ALLEGIANCE**

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

### **STUDY SESSION**

#### **1. PRESENTATION AND DISCUSSION OF BUDGET DEVELOPMENT FOR SPECIAL REVENUE FUNDS, CAPITAL PROJECT FUNDS, DEBT SERVICE FUNDS, AND THE ANTIOCH PUBLIC FINANCING AUTHORITY FOR FISCAL YEARS 2012-13**

City Manager Jakel introduced the Budget Study Session item.

Finance Director Merchant presented the staff report dated April 30, 2012, recommending the City Council provide direction and feedback.

Following review of the Special Revenue Funds and discussion, the City Council provided the following feedback:

Page 5 – Special Revenue, Civic Arts (Fund 215)

- If there was not sufficient Transient Occupancy Tax collected to fund to Civic Arts at \$23,000, \$5,000.00 would be funded from the Child Care Fund

Director of Information Systems Barton gave a brief oral report on the Council Chamber upgrades and transfer of the public access channel, as it related to the Public, Educational and Governmental Programming (PEG) Franchise Fee (Fund 238).

In response to Councilmember Kalinowski, Director of Information Systems Barton stated he would look into archiving the public access channel's broadcast of Council Meetings.

Mayor Davis arrived at 6:23 P.M.

Bob Martin, President of the Antioch Historical Society, discussed the City providing the Historical Society with water and gave a brief overview of services provided to the City. He requested Council direct staff to continue funding their water, at least until they could research additional

sources. He noted the City provided water, at no cost, to several other non-profit organizations in the City.

Michelle Copeland, President of Arts and Cultural Foundation of Antioch, gave a brief overview of services they provided to the residents of Antioch. She stated Council's consideration of increased funding for their organization would be greatly appreciated.

Martha Parsons, representing the Arts and Cultural Foundations, gave a brief history of the City's funding of the Foundation and noted without continued funding, the Lynn House would not exist. She requested the City consider funding them at a minimum of \$50,000.

Following discussion, the City Council requested staff provide the following information:

- Report back on water users receiving water service at no cost
- Report back on the viability of recycled water for non-profit entities
- Report back on the timeline for the GenOn Foundation formation and Billboard on Highway 4 funding, including possible revenue restrictions

City Manager Jakel discussed the challenges facing the City for this and future budget years and noted budget considerations were a question of precedent and priorities for the Council.

Councilmember Rocha stated that the Historical Society serves the City of Antioch and therefore she would support the City providing them with water service.

Councilmember Kalinowski spoke in support of treating all non-profits equally.

Finance Director Merchant announced the next Budget Study Session would be held on May 22, 2012.

Mayor Davis adjourned to closed session at 6:55 P.M.

#### **6:45 P.M. - CLOSED SESSION**

**1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION** —Onita Tuggles v. City of Antioch et al, Ninth Circuit Court of Appeals, Case No. 10-17181; Santeya Danyell Williams, Mary Ruth Scott, Karen Latreece Coleman, Priscilla Bunton, Alyce Denise Payne, v. City of Antioch et al., Northern District Court Case No. C08-02301 SBA. This Closed Session is authorized by California Government Code §54956.9. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION** – Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 (1 potential case).

**2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION.** Significant Exposure to litigation pursuant to subdivision (b) of Section 54956.9: Letter from James H. Colopy of Farella Braun + Martel on behalf of Discovery Builders dated March 13, 2012.

**3. PUBLIC EMPLOYEE PERFORMANCE EVALUATIONS** – This Closed Session is authorized by California Government Code §54957 City Manager.

**4. PUBLIC EMPLOYEE PERFORMANCE EVALUATIONS** – This Closed Session is authorized by California Government Code §54957 – City Attorney.

Mayor Davis called the meeting to order at 7:26 P.M., and City Clerk Skaggs called the roll.

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

City Attorney Nerland reported the City Council had been in Closed Session and gave the following report: **#1 CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION** – no action taken, **#2 CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION** – no action taken, **#3 PUBLIC EMPLOYEE PERFORMANCE EVALUATIONS** – direction given to staff **#4 PUBLIC EMPLOYEE PERFORMANCE EVALUATIONS** – direction given to staff.

Mayor Davis introduced Walter Ruehlig and Board Members from the Antioch Music Foundation who introduced the third and fourth place winners of the East County Idol competition. Nicholas Crossen performed “Broken Vow” and Raina Vizcarra performed “I Will Always Love You” for the audience.

Mayor Davis commended the Foundation and congratulated the participants of the East County Idol competition.

Mayor Davis turned the gavel over to Mayor Pro Tem Harper and left the City Council meeting to attend an awards ceremony at Antioch High School.

## **PROCLAMATIONS**

*National Public Works Week, May 20 – 26, 2012*  
*350 Home & Garden Challenge, May 12 -13, 2012*

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

Councilmember Kalinowski presented the proclamation proclaiming May 20-26, 2012, as *National Public Works Week* to Deputy Director of Public Works Bechtholdt and staff of the Public Works Department.

Councilmember Rocha presented the proclamation proclaiming May 12-13, 2012, as *350 Home and Garden Challenge* to Julie Haas-Wajdowicz who accepted the proclamation and announced flyers for the event were available in Council Chambers.

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## **ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS**

Councilmember Rocha wished all mothers a Happy Mother's Day, and invited the community to attend an event on May 10, 2012, at Somersville Towne Center and the Farmer's Market ribbon-cutting on May 13, 2012, at the Somersville Towne Center.

Sean Wright, Antioch Chamber of Commerce, announced the State of the City, *Impacting the Future* would be held from 12:00 – 1:30 P.M. on June 4, 2012, at Humphreys on the Delta. Contact information was provided.

Lonnie Karste, Mayor's Golf Tournament, announced the event would be held on June 3, 2012, at the Lone Tree Golf Course. Contact information was provided.

Julie Haas-Wajdowicz, City of Antioch, announced Bike to Work Day would be held on May 10, 2012, and reported an energizer station, would be located in front of Sutter Delta Hospital.

Denise Skaggs, City of Antioch, announced the following Boards and Commission vacancies:

- Police Crime Prevention Commission– Deadline for applications May 17, 2012
- Planning Commission – Deadline for applications June 7, 2012
- Parks and Recreation Commission – Deadline for applications June 7, 2012

## **PUBLIC COMMENTS**

Barbara Sobalvarro, Friends of Animal Services, reported the *Be Kind to Animals Week* celebration at Antioch Animal Shelter was very successful. Speaking to the Grand Jury report regarding the Antioch Animal Shelter, she expressed concern the shelter had not received sufficient funding to provide services exceeding the County's program, which, she noted, was the intent when voters approved Measure A.

Karen Kops, representing Homeless Animal Response Program (HARP) and Spay, Neuter, Impact Program (SNIP), commented on the Grand Jury report regarding the Antioch Animal Shelters and spoke in support of the City establishing a vigorous volunteer program for the facility.

Cynthia Ruehlig, Antioch resident, speaking to the Delta Diablo Sanitary District fee increase, encouraged the District to spend revenues responsibly. She expressed concern the District had not explained how they would spend the funds generated to meet new regulatory requirements. She announced a public hearing would be held at Delta Diablo Sanitary District on June 13, 2012.

Fred Hoskins, Antioch resident, speaking to the transfer of the Hard House property requested Council direct staff to provide the information necessary, to allow them to move forward in that effort.

Nancy Fernandez, Antioch resident, stated she was disappointed with Council discussions regarding the utilization of the GenOn Foundation and billboard money, which she noted, the City had not yet received.

## COUNCIL SUBCOMMITTEE REPORTS

Councilmember Agopian reported on his attendance at the Mayor's Prayer Breakfast.

**MAYOR'S COMMENTS** - None

### 2. COUNCIL CONSENT CALENDAR

A. APPROVAL OF COUNCIL MINUTES FOR APRIL 24, 2012

B. APPROVAL OF COUNCIL WARRANTS

C. REJECTION OF CLAIMS

1. Rani Windell 11/12-2048 (property damage)
2. Angelina Mazzei 12/13-2055 (property damage)
3. Efren Reynoso 12/13-2064 (impounded vehicle)

D. Z-12-02: PREZONING OF AREA #1 OF THE NORTHEAST ANTIOCH ANNEXATION AREA – THE PREZONING IS APPROXIMATELY 470 ACRES OF UNINCORPORATED LAND, REFERRED TO BY THE CITY AS AREA #1 OF THE NORTHEAST ANTIOCH ANNEXATION AREA, WHICH IS GENERALLY LOCATED ADJACENT TO AND/OR IN CLOSE PROXIMITY TO WILBUR AVENUE. THE PROPOSED PREZONING CONSISTS OF PRIMARILY M-2 (HEAVY INDUSTRIAL) ZONING, WITH M-1 (LIGHT INDUSTRIAL) PROPOSED FOR THE UNINCORPORATED AREA SOUTH OF WILBUR AVENUE, AND OS (OPEN SPACE) PROPOSED FOR THE EXISTING ENDANGERED SPECIES PRESERVE LOCATED ON THE NORTH SIDE OF WILBUR AVENUE. A PREVIOUSLY PREPARED MITIGATED NEGATIVE DECLARATION WILL BE UTILIZED TO ADDRESS ANY ENVIRONMENTAL IMPACTS OF THE PROPOSED PREZONING. ON MARCH 7, 2012, THE PLANNING COMMISSION RECOMMENDED TO THE CITY COUNCIL APPROVAL OF THE ORDINANCE TO PREZONE THE APPROXIMATELY 470 ACRES OF UNINCORPORATED LAND, REFERRED TO AS AREA #1 OF THE NORTHEAST ANTIOCH ANNEXATION AREA (*Introduced on 04/24/12*)

E. APPROVAL OF EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) 2012

F. RESOLUTION NO. 2012/26 OVERSIGHT BOARD FOR THE CITY OF ANTIOCH AS SUCCESSOR AGENCY TO THE ANTIOCH DEVELOPMENT AGENCY: CONFLICT OF INTEREST CODE AND UPDATE

G. RESOLUTION NO. 2012/27 CONSTRUCTION AND MAINTENANCE AGREEMENT WITH BNSF RAILROAD COMPANY FOR THE CONSTRUCTION OF THE WILBUR AVENUE OVERHEAD WIDENING PROJECT (P.W. 259-B)

- H. **PURCHASE PUBLIC WORKS SERVICE VEHICLES**
- I. **RESOLUTION NO. 2012/28 ACCEPTING WORK AND AUTHORIZING THE DIRECTOR OF PUBLIC WORKS/CITY ENGINEER TO FILE A NOTICE OF COMPLETION FOR THE CHICHIBU RECYCLED WATER SPECIFIC RETROFIT PROJECT**
- J. **FEASIBILITY REVIEW OF THE DEVELOPMENT OF A SYNTHETIC TURF FIELD AT PREWETT PARK**

On motion by Councilmember Kalinowski, seconded by Councilmember Agopian, the City Council unanimously approved the Council Consent Calendar with the exception of Items D and H, which were removed for further discussion.

**Item D** – This item was removed and made regular agenda Item #6.

**Item H** – In response to Councilmember Agopian, Deputy Director of Public Works Bechtholdt stated they had considered and would continue to consider alternative energy vehicles, however at this time, it was not financially feasible.

On motion by Councilmember Agopian, seconded by Councilmember Rocha, the Council unanimously approved Item H.

Councilmember Kalinowski requested the City Council hold discussions with regards to the use of the remaining Mello Roos Funds.

## **PUBLIC HEARING**

3. **PROPOSED MASTER FEE SCHEDULE EFFECTIVE JULY 1, 2012 (FISCAL YEAR 2012-2013) AND UPDATE ON WATER AND SEWER RATES**

Finance Director Merchant presented the staff report dated April 30, 2012, recommending the City Council adopt the resolution.

Mayor Davis arrived at 8:15 P.M.

Ann Bui provided a brief summary of the updated Master Fee Schedule.

Following discussion, City Manager Jakel suggested this item be continued to allow staff to bring back an Impact Analysis for not raising the fees for the Consumer Price Index.

Mayor Davis opened the Public Hearing and continued the Public Hearing to May 22, 2012.

4. **FISCAL YEAR 2012-13 ANNUAL CDBG PLAN FUNDING**

Councilmember Rocha stated she would be recusing herself from the discussion regarding Infrastructure, Housing and Economic Development, for a potential conflict of interest.

CDBG Consultant Teri House, presented the staff report dated April 30, 2012, recommending the City Council: 1) Approve the resolution adopting the draft fiscal year 2012-13 Action Plan (Option A or B), 2) Approve the resolution adopting the substantial amendments to the Contra Costa Consortium 2010-15 Consolidated Plan.

Mayor Davis opened the public hearing.

Etta Maitland, Ombudsman Services of Contra Costa, thanked the City Council for their continued support of Ombudsman Services.

Arturo Castillo, Contra Costa County Homeless Program, thanked the Council for their support and invited the public to *Project Homeless Connect* at the Willow Pass Community Center in Concord from 9:00 A.M. – 3:00 P.M. on June 14, 2012. Contact information was provided.

Laine Lawrence, Contra Costa Senior Legal Services, thanked the City for their support and stated they looked forward to continuing their partnership with the Antioch Senior Center.

Mayor Davis closed the public hearing.

**RESOLUTION NO. 2012/29**

On motion by Councilmember Rocha, seconded by Councilmember Harper, the Council unanimously approved a resolution approving public services (staff report attachment A1).

Councilmember Rocha recused herself and left Council Chambers.

CDBG Consultant Teri House presented the staff report regarding Economic Development, Infrastructure and Housing (staff report attachment A2).

In response to Councilmember Kalinowski, City Attorney Nerland reported the City had an obligation under the American with Disability Act (ADA) to make sidewalks accessible to individuals with disabilities and they would need to continue to show they had made progress in that area. She noted decreased funding may be an argument the City was not showing a good faith effort to meet the requirements of the Federal Government.

In response to Council, City Engineer/Director of Public Works Bernal stated he could provide information with regards to the percentage of curb cut projects remaining and the cost to complete them. He added the gas tax fund is eligible for curb cuts; however, it is traditionally used for street repairs.

City Attorney Nerland added the challenge with ADA lawsuits was there were damages for each violation as well as Attorney's fees. She stated staff takes these obligations and the obligation to reduce the risk, seriously.

In response to Mayor Davis, City Engineer/Director of Public Works Bernal stated he would provide Council with more information on the 50/50 sidewalk repair program when he presented Capital Improvement Projects.

City Manager Jakel reported there was a bill pending in Sacramento that would make the City obligated for 100 percent of the cost of sidewalk repair.

Mayor Davis opened the public hearing.

Alissa Friedman, Opportunity Junction, thanked the City Council for their past support and spoke to the services they provided in the community. She voiced her support for Option A as outlined in the staff report. Several audience members in attendance stood in support of Opportunity Junction.

Maria Rigazio, Erika Robbins, and Kelly Coll, representing Opportunity Junction, spoke in support of their program and Option A, as outlined in the staff report.

Candida Duperroir, Contra Costa Childcare Council, thanked the Council for their past funding of the program.

Mitchell Hardin Jr., Antioch Community Foundation, discussed the services they provided in the community and spoke in support of Option A, as outlined in the staff report.

Sean Wright, Antioch Chamber of Commerce, discussed the services they provided in the community and suggested the Council consider funding economic development.

Mayor Davis closed the public hearing.

Councilmember Harper thanked staff for developing the FY 2012-12 Annual Action Plan and noted there were many worthy programs. He spoke to the value of Opportunity Junction and the Nx Level Small Business Training Programs and recommended Council support Option A.

Councilmember Agopian spoke in support of Option A.

In response to Councilmember Kalinowski, Alissa Friedman stated government funding of their program had been a decreased percentage of their total revenues and they would need to expand diversification of their funding.

Mayor Davis thanked the CDBG subcommittee and noted all recipients were worthy organizations. He voiced his support for Opportunity Junction and the services they provided the community.

**RESOLUTION NO. 2012/30**



On motion by Councilmember Harper, seconded by Councilmember Agopian, the Council unanimously approved Option A. The motion carried the following vote:

Ayes: Kalinowski, Harper, Agopian and Mayor Davis

Recused: Rocha

Mayor Davis declared a recess at 9:42 P.M. The meeting reconvened at 9:52 P.M. with all Councilmembers present.

**RESOLUTION NO. 2012/31**

On motion by Councilmember Kalinowski, seconded by Councilmember Rocha, the Council unanimously approved the resolution adopting the substantial amendments to the Contra Costa Consortium 2010-15 Consolidated Plan.

**COUNCIL REGULAR AGENDA**

**5. NELSON RANCH PARK INFORMATIONAL UPDATE (PW 547-P)**

Director of Public Works Bernal presented the staff report dated May 1, 2012, recommending the City Council provide direction to Staff.

Jose Haresco, Antioch resident, speaking on behalf of several residents of the Nelson Ranch subdivision, thanked the City Council and staff for hearing their concerns. He read and submitted a petition which indicated they had no notification or representation at the meeting regarding the proposed park changes and they wanted to stop the removal of any structures from the park. He noted if the Council was in support of modifying the wall height, they would agree with that decision, to address residents concerns. He further noted keeping the park amenities in place would provide a safer environment and be the most financial feasible solution.

The following residents submitted speakers cards and deferred their speaking time to Jose Haresco; Antioch residents, Jose Villalba, Harold Ott, Alicia Ott, Jennifer Villalba, Juan Fernandez, Darrius Johnson, Fran Barbanica, Marion Valdez, Nichole Weiner, Cristina Fernandez and Gina Haresco.

Pamela Lauser, Antioch resident, stated she felt the proposed changes to remove park amenities at Nelson Ranch Park would be a waste of taxpayer's money. She encouraged the Council to let the park open and stop catering to residents who did not voice their opposition to the park, at the time it was approved.

William Moore, Antioch resident, read a series of email excerpts with staff regarding the proposed tree removal plan for the Nelson Ranch Park.

Julie Young, Antioch resident, speaking on behalf of Chris Young, Darlene Moore, and Alvaro Galdamez, thanked staff for presenting the details of the staff report. She noted their quality of life, safety and security were directly impacted by the park and noted they felt proposed changes were an appropriate compromise. She questioned why security lighting was installed and stated

they would like to discuss solutions regarding that issue. She thanked the Council for mitigating their concerns and stated she looked forward to resolving the concerns of everyone involved. She gave a timeline of their interaction with staff and the Council regarding the development of the Nelson Ranch Park. She stated she believed increasing the wall height alone, would not completely mitigate their concerns.

Jose Haresco expressed concern for the cost of removing the park amenities and suggested seeking more cost effective solutions. He noted what they had proposed would get the park open, used, was fiscally responsible and preserved the infrastructure.

In response to Mayor Davis, City Engineer/Director of Public Works Bernal stated a lattice type material, planted with vines, could create a solid barrier between the shade structure and the houses to the south.

Councilmember Kalinowski stated he felt it was the Council's responsibility to mitigate the impacts from the park, due to the fact some amenities were placed extremely close to neighboring properties. He noted relocation of the shade structures was not cost effective therefore he would suggest staff work to determine the best treatment to mitigate the view into neighboring yards. He suggested a visual barrier and the trail access item return to Council, after the park was opened when the impacts could be determined. He further noted he would still support the previous decision to remove the barbeques and picnic tables.

Mr. Haresco requested if picnic tables were removed, they be placed in another location within the park.

In response to Council, City Engineer/Director of Public Works Bernal reported the cost of relocating the picnic tables was approximately \$10,000-\$12,000, per location. He noted the lights installed, were similar to all parks and for security purposes.

Councilmember Rocha voiced her support for increasing the wall height and waiting through the summer to determine what the impacts were for the neighborhood.

Councilmember Agopian proposed staff look at a trellis enclosure to create more shade and a buffer for the residential area. He suggested picnic tables remain in place until their impacts could be determined and suggested staff develop a low cost option for their relocation, should it become necessary.

Councilmember Harper voiced his support for increasing the fence height and removing the trees. He stated once the park was open for a period of time, the item should return to Council to allow residents the opportunity to discuss the impacts to the neighborhood.

On motion by Councilmember Harper, seconded by Councilmember Rocha, the Council approved removal of the trees, raising the fence and directed staff return on September 11, 2012, with an update. The motion carried the following vote:

Ayes: Harper, Rocha, Agopian

Abstain: Kalinowski, Davis

City Engineer/Director of Public Works Bernal stated he would authorize the installation of the Deaf Child at Play sign at the entrance of the development.

6. **D. Z-12-02: PREZONING OF AREA #1 OF THE NORTHEAST ANTIOCH ANNEXATION AREA – THE PREZONING IS APPROXIMATELY 470 ACRES OF UNINCORPORATED LAND, REFERRED TO BY THE CITY AS AREA #1 OF THE NORTHEAST ANTIOCH ANNEXATION AREA, WHICH IS GENERALLY LOCATED ADJACENT TO AND/OR IN CLOSE PROXIMITY TO WILBUR AVENUE. THE PROPOSED PREZONING CONSISTS OF PRIMARILY M-2 (HEAVY INDUSTRIAL) ZONING, WITH M-1 (LIGHT INDUSTRIAL) PROPOSED FOR THE UNINCORPORATED AREA SOUTH OF WILBUR AVENUE, AND OS (OPEN SPACE) PROPOSED FOR THE EXISTING ENDANGERED SPECIES PRESERVE LOCATED ON THE NORTH SIDE OF WILBUR AVENUE. A PREVIOUSLY PREPARED MITIGATED NEGATIVE DECLARATION WILL BE UTILIZED TO ADDRESS ANY ENVIRONMENTAL IMPACTS OF THE PROPOSED PREZONING. ON MARCH 7, 2012, THE PLANNING COMMISSION RECOMMENDED TO THE CITY COUNCIL APPROVAL OF THE ORDINANCE TO PREZONE THE APPROXIMATELY 470 ACRES OF UNINCORPORATED LAND, REFERRED TO AS AREA #1 OF THE NORTHEAST ANTIOCH ANNEXATION AREA (Introduced on 04/24/12)**

City Attorney Nerland reported Council had on the dais a letter from Walnut Creek City Councilmember Kristina Lawson, Manatt, Phelps and Phillips LLC., representing Albert Seeno/West Coast Home Builders dated May 8, 2012. She noted Ms. Lawson was not in the audience and staff recommended Item #6 be continued to June 12, 2012.

Councilmember Kalinowski directed staff to send a written invitation to Councilmember Lawson to attend the June 12, 2012, meeting noting Council was interested in discussing her position on this issue.

On motion by Councilmember Kalinowski, seconded by Councilmember Rocha, the Council unanimously continued Item #6 (formally Consent Calendar item 1D) to June 12, 2012.

**PUBLIC COMMENTS** - None

### **STAFF COMMUNICATIONS**

City Manager Jakel reported the Clean Water Initiative did not pass and announced the following events:

Mayor's Golf Tournament, June 3, 2012, at the Lone Tree Golf and Event Center  
State of the City, June 4, 2012, at Humphreys on the Delta

### **COUNCIL COMMUNICATIONS**

Mayor Davis requested staff invite the Manager of the Clean Water program to a City Council meeting to discuss the options available.

**ADJOURNMENT**

With no further business, Mayor Davis adjourned the meeting at 11:00 P.M. to the next regular Council meeting on May 22, 2012.

Respectfully submitted:

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DENISE SKAGGS, City Clerk