

ANTIOCH CITY COUNCIL

Regular Meeting
7:00 P.M.

July 10, 2012
Council Chambers

6:15 P.M. - CLOSED SESSION

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

City Attorney Nerland reported the City Council had been in Closed Session and gave the following report: **#1 PUBLIC EMPLOYEE PERFORMANCE EVALUATIONS** – no reportable action, **#2 PUBLIC EMPLOYEE PERFORMANCE EVALUATIONS** – no reportable action.

Mayor Pro Tem Harper called the meeting to order at 7:07 P.M., and City Clerk Skaggs called the roll.

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

Mayor Pro Tem Harper announced Mayor Davis was with family this evening pending the eminent passing of his father.

PLEDGE OF ALLEGIANCE

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

PROCLAMATION

Firefighters “Fill the Boot” for Muscular Dystrophy, July 23 and 25, 2012

Councilmember Rocha presented the Proclamation proclaiming July 23 and 25, 2012 as *Firefighters “Fill the Boot” for Muscular Dystrophy* to Kirsha Zupetz, Executive Director of the Muscular Dystrophy Association for the Greater Bay Area, who accepted the Proclamation and thanked the City for the recognition.

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

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Walter Ruehlig and Members of the 4th of July Committee, thanked the City for their support of the event and reported it was a well attended and successful event. Council was presented with t-shirts and staff, the public, and sponsors who participated, were thanked for their support. Awards were presented to the parade participant winners.

The Council thanked the 4th of July Committee for their hard work organizing a very successful event.

Ms. Davis thanked Mayor Pro Tem Harper for acknowledging Mayor Davis was out to make his father's journey easy.

Councilmember Rocha acknowledged Diane Gibson-Gray for assisting in the accounting for the event.

With concurrence of the Council, the Presentation was moved up on the agenda as the next item of business.

PRESENTATION

District Attorney Mark Peterson gave a brief overhead presentation of his professional background and the programs and services provided by the District Attorney's Office.

Mayor Pro Tem Harper thanked District Attorney Peterson for being in attendance to make the presentation.

Councilmember Agopian thanked District Attorney Peterson for the presentation and voiced his support for the adoption of a daytime curfew ordinance.

In response to Councilmember Agopian, Mr. Peterson offered to meet with interested parties to discuss ways to address illegal squatters.

Councilmember Kalinowski reported his interaction with the District Attorney's office over the past 18 years; had been professional. He thanked Mr. Peterson for his flexibility and understanding globally, the issues in the community.

District Attorney Peterson stated he looked forward to working with the City to enhance public safety.

PUBLIC COMMENTS

Mayor Pro Tem Harper read written comment from Nickole Borslon thanking the Council for considering Consent Calendar, Item H, for approval.

Fred Hoskins, Antioch resident, reiterated his request to agendize a discussion regarding charging non-profits for displaying signage. He questioned how the public could get an item placed on the agenda. He encouraged residents to utilize resources in their neighborhoods to help reduce criminal activity, attend, and participate in Council meetings.

Carolyn Taylor stated her prayers were with Mayor Davis and his family. She apologized for the treatment Councilmember Rocha and Mayor Davis had received by the management of the Hudson Town House Apartments during their onsite visit. Speaking to the letter received by the

legal counsel for Hudson Townhouse Manor as well as its management company, FPI Management Inc., she noted the portable units they had offered were insufficient in keeping their apartments cool. She reported Mr. Arthur had offered to meet with her next week, however, his office had requested she not attend this evening's Council meeting. She provided documentation from the Fire Department of the current codes pertaining to window air conditioning units. She thanked Council for their assistance in attempting to get air conditioning reinstalled in their apartments.

Julie Young, Antioch resident, updated the Council on the opening of Nelson Ranch Park and discussed incidences that had occurred since the park had opened. She noted the Antioch Police Department had not responded to her calls for service and they did not want to engage the people themselves, for fear of retaliation.

Norris and Trisha Jones, Antioch residents, reported their home backed 18th Street and their fence was in disrepair due to the ivy not being properly maintained on the City's side. She also noted the ivy had attracted rodents and they had been unable to enjoy their backyard. She provided photos and requested the City repair the fence and consider replacing it with a sound wall to prevent vehicles from coming through the fence into their yards.

Mayor Pro Tem Harper requested staff contact the homeowners and look into the issue.

COUNCIL SUBCOMMITTEE REPORTS

Councilmember Rocha reported on a phone call she received from the management of the Hudson Townhouse Manor. She noted Council was concerned and would be following up on the issues.

Mayor Pro Tem Harper reported on his attendance at a neighborhood walk with Antioch Church Family.

MAYOR'S COMMENTS - None

1. COUNCIL CONSENT CALENDAR

A. APPROVAL OF COUNCIL MINUTES FOR JUNE 26, 2012 – *Continued to July 24, 2012*

B. APPROVAL OF COUNCIL WARRANTS

C. REJECTION OF CLAIM

1. Melvin DeVan Daniel 12/13-2071 (personal injury/property damage)

D. RESOLUTION NO. 2012/47 CONFIRMING CONSOLIDATION OF ELECTION, CANDIDATES STATEMENT WORD COUNT AND CLARIFYING COSTS FOR THE NOVEMBER 6, 2012 REGULAR ELECTION

- E. **RESOLUTION NO. 2012/48** OF THE CITY COUNCIL OF THE CITY OF ANTIOCH CONFIRMING CANVASS BY THE COUNTY CLERK OF CONTRA COSTA OF BALLOTS CAST AT THE PRIMARY ELECTION HELD ON JUNE 5, 2012
- F. **RESOLUTION NO. 2012/49** ADOPTION OF THE 5-YEAR CAPITAL IMPROVEMENT PROGRAM 2012-2017 (P.W. 150-12)
- G. **RESOLUTION NO. 2012/50** APPROVING THE REIMBURSEMENT AGREEMENT WITH LOWE'S HIW, INC. FOR LONE TREE WAY WIDENING AND AN AMENDMENT TO THE 2011-2012 MEASURE "J" BUDGET (PD-04-2 & UP-04-4)
- H. CONSIDERATION OF BIDS FOR THE CURB, GUTTER, AND SIDEWALK REPAIR INCLUDING TREE REMOVAL AND STUMP GRINDING AND INSTALLATION OF CONCRETE HANDICAP ACCESSIBLE RAMPS AT MISCELLANEOUS LOCATIONS 2012-2013, (P.W. 507-14)
- I. APPROVAL OF PROPOSAL AND AUTHORIZATION FOR THE CITY MANAGER TO SIGN AN AGREEMENT WITH BROWN AND CALDWELL FOR ENGINEERING DESIGN FOR THE CAMBRIDGE TANK EXPANSION PROJECT (P.W. 365-T3)
- J. AMENDMENT TO THE CONSULTANT SERVICES AGREEMENT FOR PROFESSIONAL SERVICES WITH ANN B. SPAULDING
- K. **RESOLUTION NO. 2012/51** AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT EXTENSION WITH THE ENVIRONMENTAL CONSULTING FIRM CIRCLE POINT TO UPDATE AND AUGMENT THE EXISTING ENVIRONMENTAL DOCUMENTATION PREPARED FOR THE NORTHEAST ANTIOCH ANNEXATION

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

Item F – In response to Councilmember Agopian, Director of Public Works/City Engineer Bernal reported the restroom pad had an area to accommodate a future bait and tackle shop and noted the improvements for "L" Street would be included in the CIP discussion next year.

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

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

Item J – Director of Public Works/City Engineer Bernal presented the staff report dated June 13, 2012 recommending Council approve the Seventh Amendment to the Consultant Services Agreement.

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

Ayes: Harper, Kalinowski, Rocha

Noes: Agopian

Absent: Davis

Item K – City Manager Jakel presented the staff report dated July 3, 2012 recommending the Council adopt the resolution.

Councilmember Kalinowski stated his following motion to approve the resolution was with the understanding the funds would come from the identified source listed in the staff report.

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

COUNCIL REGULAR AGENDA

2. KELLY'S CARD ROOM

City Attorney Nerland presented the staff report dated July 3, 2012 recommending the City Council provide direction regarding the request of Blarney LLC to allow Kelly's Card Room license at 408 O Street not to expire and be extended for six months (or longer) to allow the potential new buyers to propose the transfer of the license to another site, which has not been identified yet.

Richard Shindle, representing Blarney LLC., stated they had entered into an agreement to acquire Kelly's Restaurant Card Room license and business and were assured by the seller that the building could be renovated in a short time, however upon inspection they found the building to be in disrepair with the need for substantial upgrades. He stated they would like to continue with the acquisition of the license and look for an alternative location within the City, therefore they were requesting the Card Room license be extended for 12-18 months. He discussed the success of their Card Room/Restaurant in Petaluma.

Paul Justi, representing the owner of Kelly's Card Room Al Cianfichi, requested the Council grant a 6-month discretionary extension for the Card Room license. He gave a brief background of the business. He stated they were attempting to negotiate the sale of the business and the transfer of the business license with Blarney LLC., and with more time, they felt they could complete the transaction and maintain the Restaurant/Card Room as an asset for the City.

Fred Hoskins, Antioch resident, urged the City to consider the extension and an increase to the business license fees for Card Rooms.

Mayor Pro Tem Harper reported he and Councilmember Rocha met with Mr. Cinaficci and he had not been forthright regarding the status of the license. Furthermore he noted the staff report did not include information with regard to the condition of the building, therefore, he would not be supportive of an extension.

In response to Councilmember Kalinowski, Mr. Justi clarified they were continuing to negotiate with the buyers, in good faith it was within the Council's discretion to raise taxes with respect to Card Rooms to correspond with other jurisdictions.

In response to Council, City Attorney Nerland clarified Council had the authority to limit the extension to the current investor and noted under the ordinance, there was only one 6-month extension allowed. She further noted the term "Hardship" was not defined in this provision of the Municipal Code, therefore, the Council could consider a finding regarding the outcome of the inspection.

Councilmember Rocha stated she would support the extension to allow time for the investor to find a suitable alternative location.

In response to Councilmember Agopian, Mr. Justi clarified the contract for purchasing the building and business with the Card Room license was signed on May 14, 2012.

Mr. Shindle stated their intention was to open the business at the "O" Street location immediately following the purchase, however the City's Building Inspector had indicated significant issues would prohibit the restaurant from opening. He noted he did not believe the building could be delivered in a condition that would make it sellable, and if not, they would like to continue with the acquisition of the license and find an alternative location. He stated they would be willing to hold discussions with the City with regards to increasing the taxation for tables and gaming revenues.

Mr. Justi stated the seller would be willing to sell just the license, however, they wanted to attempt to deliver the building under the contract and remedy the building defects.

Councilmember Agopian encouraged the buyer and seller to negotiate a contract that would be satisfactory to both parties. He noted based on the Municipal Code, he felt the Council did not have the authority to approve an additional 6-month extension for the buyer to find an alternative location.

Captain McConnell reported over a two-year period of time, Kelly's Restaurant/Card Room had 32 calls for service and the 19th Hole had 86.

On motion by Councilmember Kalinowski, seconded by Councilmember Rocha, the Council allowed the Card Room license not to expire for 6-months at the 408 "O" Street location if Blarney LLC and current owner/licensee complete the purchase by 5:00 P.M. on July 20, 2012 and the Card Room operation at that location would open prior to January 23, 2013. The motion carried the following vote:

Ayes: Kalinowski, Rocha, Agopian

Noes: Harper

Absent: Davis

Councilmember Kalinowski stated if new owners, in the future, determine they want to relocate the business, the Council could revisit that proposal.

3. BENEFITS FOR ELECTED OFFICIALS

This item was requested by Mayor Davis. Due to his absence, and with concurrence of the Council, this item was continued.

Fred Hoskins, Antioch resident, requested clarification with regard to the dollar amount of health benefits outlined in the resolution.

Councilmember Kalinowski clarified the resolution indicated the current amounts paid to Councilmembers who elected to take medical coverage. He requested when this item return to Council, staff include the total costs of benefits and a comparison of benefits with like-cities.

PUBLIC COMMENTS - None

STAFF COMMUNICATIONS

City Manager Jakel announced Council would be meeting on July 24, and there would be a single meeting in August on the 14th. He reported Councilmember Kalinowski had previously indicated he would not be present at the August 14, 2012 meeting.

COUNCIL COMMUNICATIONS

Councilmember Agopian requested the Council consider holding a special meeting on July 17, 2012, to discuss the efforts of local citizens to bring forward polling for a parcel/sales tax to enhance police services.

City Attorney Nerland reported if the Council supported the ordinance to move a parcel tax forward, the timeline necessary for approval would require it to be drafted for adoption by next week.

Following discussion, Council agreed the timeline would prohibit the passage of a sales/parcel tax measure by ordinance and therefore, a special meeting would not be warranted.

Councilmember Kalinowski cautioned Council on the need for transparency when involved with a committee conducting polling without briefing or knowledge, through a subcommittee report.

ADJOURNMENT

With no further business, Mayor Pro Tem Harper adjourned the meeting at 9:28 P.M. to the next regular Council meeting on July 24, 2012.

Respectfully submitted:

DENISE SKAGGS, City Clerk