

## CITY COUNCIL MEETING

Regular Meeting  
7:00 P.M.

June 11, 2013  
Council Chambers

### 5:45 P.M. - CLOSED SESSION

1. **CONFERENCE WITH LABOR NEGOTIATORS** – This Closed Session is authorized by California Government Code section 54957.6. City designated representatives; Michelle Fitzer and Glenn Berkheimer; Employee organizations: Management, Confidential, Local 1, Operating Engineers Local 3 and APSMA
2. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION** – Significant exposure to litigation pursuant to Government Code section 94956.9(d)(2); Letter of May 28, 2013 from the California Apartment Association regarding the Business License Tax proposal
3. **CONFERENCE INVOLVING A JOINT POWERS AGENCY** pursuant to California Government Code section 54956.96-- East Contra Costa Regional Fee and Financing Authority

Discussion will concern: **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION** – Significant exposure to litigation pursuant to California Government Code sections 54956.9(d)(2): One potential case involving dispute between ECCRFFA and City of Pittsburg over Pittsburg's receipt of funds under Measure J and attempt to file a legal action per legal counsel for ECCRFFA.

Name of local agency representative on joint powers agency board: Mayor Harper

4. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION** – Significant exposure to litigation pursuant to California Government Code Section 94956.9(d)(2): Claim of Albert Seeno Construction Co. and Discovery Builders, Inc. regarding fee credit dispute related to Mira Vista Hills subdivision

Mayor Harper called the meeting to order at 7:06 P.M., and City Clerk Simonsen called the roll.

Present: Council Members Wilson, Rocha, Tiscareno, Agopian and Mayor Harper  
Absent: Council Member Agopian

### PLEDGE OF ALLEGIANCE

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

City Attorney Nerland reported the City Council had been in Closed Session and gave the following report: **#1) CONFERENCE WITH LABOR NEGOTIATORS**, Direction was given to staff; and **#2) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**, No action was taken; and, **#3) CONFERENCE INVOLVING A JOINT POWERS AGENCY**, Closed Session was

not held on this item given the letter received by the City Attorney for Pittsburg and ongoing dispute regarding ECRFFA's ability to conduct a closed session, leaving the Antioch City Council to decide whether it was prepared to take action regarding open session Item 5 without the benefit of the closed session; and, **#4) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**, No action was taken.

**ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS – None**

**PUBLIC COMMENTS**

Chris Young, Antioch resident, reported the right-of-entry agreements for the wall at Nelson Ranch Park had been delivered to the City.

In response to Mayor Harper, City Attorney Nerland clarified there was an issue regarding a right-of-entry for a foreclosed property and staff would research the City's options. She noted the Item would be brought back to Council if they were unable to move forward, as initially intended.

Fred Hoskins, Antioch resident, reiterated his request for the City Council to send a letter of support to Governor Brown or the California State Department of Finance, for the transfer of the Roswell Butler Hard House property to the Friends of Roswell Butler Hard House.

Dave Larsen reported he was working with the neighbors on Menona Court regarding increasing the wall height at Nelson Ranch Park. He noted all five (5) right-of-entry agreements were signed however, one house went into foreclosure and they have since had difficulty identifying the owner of the property. He stated Assemblyman Frasier's office was working on this issue and they would be receiving the final signature as soon as possible. He suggested the City consider a local ordinance requiring owners of foreclosed properties to provide the City with contact information.

**COUNCIL SUBCOMMITTEE REPORTS – None**

**MAYOR'S COMMENTS**

Mayor Harper reported on his attendance at the Small Business Award Ceremony in Sacramento which recognized *Pinky's Klassy Kar Wash*.

**PRESENTATIONS**

*Memorial Day Essay Awards Recognition*

Mayor Harper presented certificates of recognition awards to the following students who participated in the Memorial Day Essay Contest:

- Margaret Gill – Dozier-Libbey Medical High School – Second Place
- Yoshi Roads – Black Diamond Middle School – Second Place
- Erin McDade – Dozier-Libbey Medical High School – First Place

Ms. McDade thanked the City Council for the award and for having the program available for students.

*eBART Next Segment Study and Construction Update, Ellen Smith*

Ellen Smith gave a brief overhead presentation of the eBART Construction Update & Next Segment Study Summary.

Mayor Harper thanked Ms. Smith for the presentation.

1. **COUNCIL CONSENT CALENDAR**
  - A. **APPROVAL OF COUNCIL MINUTES FOR MAY 28, 2013**
  - B. **APPROVAL OF COUNCIL WARRANTS**
  - C. **WATER TREATMENT CHEMICALS PURCHASE FOR FISCAL YEAR 2013/2014**
  - D. **CODE ENFORCEMENT OFFICER – CONTRACT RENEWAL**
  - E. **ASSEMBLY BILL 4 – THE TRUST ACT – REGARDING FEDERAL IMMIGRATION POLICY ENFORCEMENT**
  - F. **DESIGNATION OF VOTING DELEGATE FOR 2013 LEAGUE ANNUAL CONFERENCE**

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

**PUBLIC HEARING**

2. **PW-652 - SCOTT BRODER IS REQUESTING AN AMENDMENT TO THE CONDITIONS OF APPROVAL ON THE TENTATIVE MAP FOR THE GOLDEN BOW ESTATES. THE AMENDMENT WOULD REMOVE THE ONE-STORY RESTRICTION AND ALLOW THE CONSTRUCTION OF A TWO-STORY HOUSE ON LOT 4 OF THE SUBDIVISION. THE PLANNING COMMISSION RECOMMENDED DENIAL OF THE AMENDMENT TO THE CITY COUNCIL BY A 7-0 VOTE. THE PROJECT IS LOCATED AT 3501 RAM COURT (APN: 076-680-004)**

At the request of the applicant, staff recommended this Item be continued to June 25, 2013.

On motion by Councilmember Tiscareno, seconded by Councilmember Wilson, the Council unanimously continued the Public Hearing to June 25, 2013.

## **COUNCIL REGULAR AGENDA**

### **3. SALES TAX BALLOT MEASURE**

City Attorney Nerland gave a brief background of this Item. She clarified that the California Constitution required a unanimous vote of the City Council to approve the resolution declaring a fiscal emergency and; calling for and noticing a municipal election on November 5, 2013. In the absence of Councilmember Agopian, staff recommended this Item be continued to June 25, 2013.

Fred Hoskins, Antioch resident, commended the Antioch Police Department for working with the U.S. Postal Service and Republic Waste Services on the Neighborhood Watch program. He spoke in opposition to the Sales Tax Ballot Measure. He suggested the City focus on determining the cause of the criminal activity and organizing events for the youth in the community.

Mayor Harper reported the Mayor's Golf Tournament had been established to fund youth programs.

Ralph Hernandez, Chair Citizen's for Democracy, reported in 2010 he had submitted ideas to improve the City's finances, and the City had failed to follow up with him on those Items. He spoke in opposition to the Sales Tax Ballot Measure.

Mayor Harper responded briefly.

Norma Hernandez, Antioch resident spoke against the sales tax ballot measure noting it would negatively impact jobs and businesses in Antioch.

Will Leroy, Antioch resident, stated low income housing and the release of parolees into Antioch were the cause of increased criminal activity in the area. He suggested the City seek federal and alternative funding sources and reject a Sales Tax Ballot Measure. Additionally, he stated an argument against the Measure should be included on the Ballot.

On motion by Councilmember Rocha, seconded by Councilmember Tiscareno, the Council unanimously continued the Sales Tax Ballot Measure to June 25, 2013.

### **4. BUSINESS LICENSE TAX BALLOT MEASURE**

City Attorney Nerland gave a brief background of this Item. She clarified that the California Constitution required a unanimous vote of the City Council to approve the resolution declaring a fiscal emergency and; calling for and noticing a municipal election on November 5, 2013. In the absence of Councilmember Agopian, staff recommended this Item be continued to June 25, 2013. She clarified there was no intention in the proposed resolution to not allow an argument for and against any ballot measure. The City Attorney also clarified that the resolution indicated that there would be no second round of rebuttal arguments regarding the ballot measure, but there could be an argument in support and in opposition to the measure.

City Clerk Simonsen reported on the dais and in Council Chambers for the public, was a letter from Terry Peterson representing Marina Creek Apartments, for Agenda Item #4.

Norma Hernandez, Antioch resident, spoke in opposition to the Business License Tax Ballot Measure noting it would have a negative impact on investors who want to purchase properties in Antioch. She expressed concern that it would increase rents for tenants.

Ralph Hernandez, Chair of Citizens for Democracy, spoke in opposition to the Business Tax Ballot Measure noting there are disparities in the proposed language and it would have a negative impact on the rental process.

Will Leroy, Antioch resident, spoke in opposition to the Business Tax Ballot Measure noting new businesses would not locate in Antioch if sales tax increased.

On motion by Councilmember Wilson, seconded by Councilmember Rocha, the Council unanimously continued the Business License Tax Ballot Measure to June 25, 2013.

**5. CONSIDERATION OF OPTIONS REGARDING DISPUTE OVER REGIONAL TRAFFIC IMPACT FEE DISPUTE BETWEEN PITTSBURG AND TRANSPLAN/ECCRFFA**

Public Works Director/City Engineer Bernal presented the staff report dated June 4, 2013 recommending the City Council consider the two options being presented and adopt a resolution approving conceptually both options regarding resolution of the dispute between Pittsburg and TRANSPLAN/ECCRFFA and direct staff to provide written confirmation of the Council's action to the TRANSPLAN and ECCRFFA Boards with the understanding that any final agreement would require City Council approval that the City Council does not intend to consider until the City of Pittsburg has approved a final agreement.

Sal Evola, Pittsburg City Council, spoke in support of the staff recommendation for Council to adopt the resolution in support of both options, as outlined in the staff report. He stated the City of Pittsburg was committed to working cooperatively with the City of Antioch on a solution that shows a commitment to regional transportation needs.

**RESOLUTION NO. 2013/28**

On motion by Councilmember Rocha, seconded by Councilmember Tiscareno, the Council unanimously adopted the resolution approving both Options #1 and 2.

**PUBLIC COMMENTS**

Ralph Hernandez, Antioch resident, commented that he had not made personal attacks on Mayor Harper in his prior comments.

Norma Hernandez, Antioch resident, stated if an emergency were declared by the City Council, all contracts could be renegotiated. She encouraged the City to seek other funding opportunities for the Antioch Police Department and promote more business in Antioch.

Will Leroy, Antioch resident, encouraged Council to be tolerant of public opinion and more supportive of local businesses.

### **STAFF COMMUNICATIONS**

City Manager Jakel announced the next City Council meeting would be held on June 25, 2013 and would include the Budget and Continued Items from this meeting. He further noted the Council would be discussing the meeting schedule for the remainder of the summer.

### **COUNCIL COMMUNICATIONS**

Councilmember Tiscareno reported on his attendance at the Antioch High School graduation ceremonies and American Cancer Society Relay for Life committee meeting.

Councilmember Wilson reported on her attendance at High School and Opportunity Junction graduation ceremonies. She further noted she took a tour of Delta Diablo Sanitation District.

Mayor Harper reported on his attendance at the Antioch High School graduation ceremonies and the Mayor's Conference.

### **ADJOURNMENT**

With no further business, Mayor Harper adjourned the meeting at 8:21 P.M. to the next regular Council meeting on June 25, 2013.

Respectfully submitted:

*Kitty Eiden*  
KITTY EIDEN, Minutes Clerk