

**CITY COUNCIL MEETING  
INCLUDING THE ANTIOCH CITY COUNCIL  
ACTING AS SUCCESSOR AGENCY/HOUSING SUCCESSOR  
TO THE ANTIOCH DEVELOPMENT AGENCY  
ANTIOCH PUBLIC FINANCING AUTHORITY**

**Regular Meeting**  
**7:00 P.M.**

**June 25, 2013**  
**Council Chambers**

**6:15 P.M. - CLOSED SESSIONS**

- 1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION** – Significant exposure to litigation pursuant to Government Code section 94956.9(d)(2); Letter of May 28, 2013 and from the California Apartment Association regarding the Business License Tax proposal
  
- 2. 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

City Attorney Nerland reported the City Council had been in Closed Session and gave the following report: **#1 CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**, No action was taken; and **#2 CONFERENCE WITH LEGAL COUNSEL -- ANTICIPATED LITIGATION**, No action was taken.

Mayor Harper called the meeting to order at 7:04 P.M., and City Clerk Simonsen called the roll.

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

**PLEDGE OF ALLEGIANCE**

Vanessa Couver led the Council and audience in the Pledge of Allegiance.

**ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS**

Joy Motts, Celebrate Antioch Foundation, and members of the 4<sup>th</sup> of July committee, announced they were successful in raising funds for the event, which would begin at 4:00 P.M. in downtown Antioch. They thanked the City Council and citizens of Antioch for their support and provided contact information for anyone wishing to make a contribution.

Maddy McHugh, representing Litter Liberators, discussed their efforts to encourage 4<sup>th</sup> of July parade attendees, to clean up after themselves. She invited the City Council and public to join their efforts.

## **PUBLIC COMMENTS**

Fred Hoskins, Antioch resident, announced the Arts and Cultural Foundation would be hosting a Celebration of Art from 1:00 P.M. – 4:00 P.M. on June 29, 2013 and artists would be selling their work on July 9, 2013, at the Antioch Historical Museum. He suggested the City sponsor activities focused towards youth from ages 12 – 20 years old and offered to assist in the effort.

## **COUNCIL SUBCOMMITTEE REPORTS**

Councilmember Rocha reported on her attendance at the Community Services Committee meeting in Sacramento.

## **MAYOR'S COMMENTS**

Mayor Harper reported on his attendance at the NRG Power Plant ribbon-cutting ceremony.

## **PRESENTATION**

*Contra Costa Water District presented by Board Members Bette Boatmun and Karl Wandry*

Contra Costa Water District, Board Members Bette Boatmun and Karl Wandry gave a brief overhead presentation of the Contra Costa Water District. They thanked City Engineer/Director of Public Works Bernal and City staff for their assistance.

Mayor Harper thanked Ms. Boatmun and Mr. Wandry for the update.

1. **COUNCIL CONSENT CALENDAR**
  - A. **APPROVAL OF COUNCIL MINUTES FOR JUNE 11, 2013**
  - B. **APPROVAL OF COUNCIL WARRANTS**
  - C. **APPROVAL OF TREASURER'S REPORT FOR MAY 2013**
  - D. **RESOLUTION NO. 2013/29 SALARY AND BENEFITS DECREASE FOR ELECTED OFFICIALS**
  - E. **CONSULTING SERVICES AGREEMENT WITH MUNICIPAL RESOURCE GROUP (MRG) LLC**

- F. EXTEND THE CONTRACT FOR THE CURB, GUTTER AND SIDEWALK REPAIR, INCLUDING TREE REMOVAL AND STUMP GRINDING AND INSTALLATION OF CONCRETE HANDICAP ACCESSIBLE RAMPS AT MISCELLANEOUS LOCATIONS FOR A PERIOD OF ONE YEAR (P.W. 507-14)
- G. APPROVAL OF CONTRACTS TO REHABILITATE THE MARINA SEWER LIFT STATION
- H. HONEYWELL HVAC SERVICE CONTRACT
- I. LETTER OF OPPOSITION TO AB 325 (ALEJO) REGARDING HOUSING ELEMENT LAWS
- J. GRAND JURY REPORT: "OUTSOURCING MUNICIPAL SERVICES" (REPORT 1302)
- K. GRAND JURY REPORT: "ENCOURAGING CITIZENS TO APPLY FOR GRAND JURY SERVICE" (REPORT 1308)
- L. COUNTYWIDE GUN BUYBACK PROGRAM

City of Antioch Acting as Successor Agency/Housing Successor to the Antioch Development Agency

- M. APPROVAL OF SUCCESSOR AGENCY WARRANTS
- N. APPROVAL OF HOUSING SUCCESSOR WARRANTS
- O. SA RESOLUTION NO. 2013/07 OF THE CITY OF ANTIOCH AS SUCCESSOR AGENCY AND HOUSING SUCCESSOR TO THE ANTIOCH DEVELOPMENT AGENCY ADOPTING THE FISCAL YEAR 2013-14 BUDGET AND REVISING THE 2012-13 BUDGET AS RELATED TO THE ACTIVITES OF THE SUCCESSOR AGENCY AND HOUSING SUCCESSOR

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) (Continued from 06/11/13)**

Senior Planner Gentry presented the staff report dated June 20, 2013 recommending the City Council uphold the Planning Commission's recommendation to deny the request.

Mayor Harper opened the public hearing.

City Attorney Nerland reviewed the speaker rules for the public hearing.

**PROPOSERS**

Michael Hechathorn, representing the applicant, reported since the Planning Commission meeting, they had made changes to address the neighbors concerns. He noted all rear windows had been removed, a vegetative visual barrier had been added and they had included a flat roof system to reduce the height of the structure.

James Koch, Antioch resident, spoke in support of Mr. Broder and removal of the single-story restriction on the lot.

**OPPOSERS**

William and Anita Saunders, Antioch residents, stated if the house were built as proposed, it would have a negative impact on their property values and privacy. They spoke in support of the applicant abiding by the original conditions of approval for the property.

Mayor Harper closed the public hearing.

Mayor Harper stated the rights of residents who lived in the area, should be supported.

Councilmember Agopian commented that the original conditions of approval for this development were clear and concise to reduce impacts to the surrounding neighborhoods and the revisions proposed were not adequate to address the neighbors concerns.

**RESOLUTION NO. 2013/30**

On motion by Councilmember Agopian, seconded by Councilmember Rocha, the City Council upheld the Planning Commission's recommendation and denied the request for an amendment to the resolution.

3. **DAVIDON HOMES IS REQUESTING APPROVAL OF A DEVELOPMENT AGREEMENT APPLICABLE TO THE APPROXIMATELY 170 ACRE PROPERTY GENERALLY LOCATED EAST OF CANADA VALLEY ROAD AND WEST OF STATE ROUTE 4 (BYPASS). DAVIDON HOMES HAS ENTITLEMENTS TO DEVELOP THE SUBJECT PROPERTY WITH 525 SINGLE FAMILY HOMES. THE PLANNING COMMISSION RECOMMENDED APPROVAL OF THE DEVELOPMENT AGREEMENT BY A 5-0 VOTE WITH TWO ABSENCES ON JUNE 5, 2013.**

Community Development Director Wehrmeister presented the staff reports dated June 20, 2013 and June 25, 2013 recommending the City Council read by title only and to introduce the ordinance.

In response to Councilmember Tiscareno, Karen Murphy, Consulting Attorney, clarified provision in the Development Agreement referenced that Davidon had committed to hire union contractors for plumbing, electrical, and HVAC construction trades.

In response to Councilmember Agopian, City Attorney Nerland stated that staff would need to research the City's ability to add an owner occupied provision; however, it was her understanding those provisions only withstood legal challenge when they were adopted by a Homeowners Association.

Mayor Harper opened the public hearing.

### **PROPONENT**

Jeff Thayer, Davidon Homes, thanked staff and everyone involved for working on the Development Agreement and stated he felt there was a great structure for an even build out of the project. He noted in the past, their experience had been that most work done on site was completed by union contractors.

In response to Council, Mr. Thayer stated they could not include written provisions regarding local hires; however it was advantageous to have workers who live in East County. He noted that the earliest date for grading to begin was approximately one-year and when the market improved; they would be prepared to move forward with construction. Speaking in regards to an owner occupied requirement, he clarified, in the past, homes being purchased as rentals had not been an issue and it would be difficult to write a provision that was enforceable. He also noted they could not support adding such a provision to the Development Agreement.

### **OPPONENT**

Ralph Hernandez, Citizens for Democracy, stated he felt Antioch had too much housing stock and approval of this development would put a strain on the City's infrastructure.

Mayor Harper closed the public hearing.

Following discussion, the Council agreed the City would have the infrastructure in place to support more housing and it would be a positive project for the City.

Councilmember Agopian encouraged the developer to make the project as energy efficient as possible and requested the Homeowners Association consider adding a homeowner occupancy requirement.

On motion by Councilmember Tiscareno, seconded by Councilmember Agopian, the Council unanimously 1) Read the ordinance by title only, and 2) Introduced the ordinance approving a development agreement between the City of Antioch and Davidon Homes for the Park Ridge Subdivision Project.

#### **REGULAR COUNCIL/ PUBLIC FINANCING AUTHORITY AGENDA**

#### **4. APPROVING OPERATING BUDGET FOR THE FISCAL YEAR 2013-14 WITH PROPOSED REVISIONS TO THE FISCAL YEAR 2012-13 BUDGET AND THE 2013-18 CAPITAL IMPROVEMENT PROGRAM**

City Manager Jakel introduced the budget item. He recognized staff for working on the draft document and the City Council for their comprehensive review of all the information.

Finance Director Merchant presented the staff report dated June 18, 2013 recommending the City Council adopt the resolution.

Following discussion, Council supported Councilmember Rocha's request to direct staff to bring back more information regarding the Child Care Fund and the Civic Arts Funds.

#### **RESOLUTION NO. 2013/31**

On motion by Councilmember Rocha, seconded by Councilmember Tiscareno, the Council unanimously adopted the resolution and directed staff to bring back information on the Child Care and Civic Arts Funds.

#### **5. RESOLUTION OF THE CITY OF ANTIOCH PUBLIC FINANCE AUTHORITY ADOPTING THE 2013-14 AND REVISING THE 2012-13 BUDGETS**

Finance Director Merchant presented the staff report dated June 18, 2013 recommending the City Council adopt the resolution.

Councilmember Agopian stated that due to deficit spending, he was reluctantly voting to approve the budget.

**RESOLUTION NO. 2013/32**

On motion by Councilmember Agopian, seconded by Councilmember Wilson, the Council unanimously adopted the resolution.

Mayor Harper declared a recess at 8:43 P.M. The meeting reconvened at 8:57 P.M. with all Councilmembers present.

**6. SALES TAX BALLOT MEASURE** *(Continued from 06/11/13)*

City Attorney Nerland presented the staff report dated June 18, 2013 recommending the City Council: 1) Motion to read by title only and adopt the "Ordinance of the City of Antioch Imposing a Transactions and Use Tax to be Administered by the State Board of Equalization" (two-thirds vote); and 2) Adopt the resolution of the City Council of the City of Antioch Declaring a Fiscal Emergency; Calling for and Noticing a Municipal Election on November 5, 2013 to present to voters a Measure to Adopt a Temporary One-half Cent Transactions and Use (Sales) Tax to Fund all essential Antioch City Services including Police, Code Enforcement, and Street Repairs.

Following the City Council's introduction of the Sales Tax Ordinance on May 28, 2013, the City Attorney indicated that the next step is to make a motion to adopt the ordinance and to approve the resolution declaring the emergency and calling for a Special Election for November 5, 2013 on a ballot measure to temporarily increase the sales tax by one-half ( $\frac{1}{2}$ ) cent for seven (7) years and subject to an independent audit, Citizens' Oversight Committee, and annual budget reporting.

To do so, the City Attorney explained that the City Council would need to unanimously adopt the resolution and in particular, to determine that an emergency exists due to the City's financial condition that requires the voters to consider the tax during a year when no council members are standing for election.

Referring back to the earlier staff report and testimony on the agenda regarding the budget and prior budget study sessions earlier this year, the City Attorney indicated that pages 2 through 7 of the Resolution discuss the City's fiscal emergency. To summarize:

- The City's General Fund revenues have dropped almost \$13 million since 2007 and yet the City's population and the community's needs keep increasing;
- The City has taken extreme measures to address this budget shortfall by reducing staffing by 40%; implementing weekly furloughs, increasing employee contributions towards retirement costs, and drastically reducing post-retirement medical benefits for new employees; and

- The City has also reduced operating budgets and deferred equipment replacement.

Despite these significant expenditure cuts, serious budget issues remain. These budget concerns only intensify if services are restored to meet community needs. These community needs include:

- Law enforcement with violent crimes and property crimes increasing in 2012 as well as the Police Department's response time given limited staffing;
- Significant backlog of Code Enforcement cases;
- \$52 million worth of needed street rehabilitation and maintenance work;
- And of course with the State dissolving redevelopment, there is only the City's general fund left to fund economic development activities to provide local jobs for community members, generate income to be spent locally, and to enhance property values.

By way of a more specific example, if the City recruited police officers quickly enough to fill all of the vacancies in the next fiscal year (not even increase police staffing), then

- expenditures would significantly exceed revenue projections,
- the City would be significantly deficit spending, and
- soon unable to meet its obligations.

The same would be true if additional Code Enforcement officers were hired or the City repaired all of its streets.

The City Attorney then directed the City Council's attention to the second part of the resolution calling the election establishes the election procedures. The decision points for the Council were identified and explained:

- *Will the City Council authorize the Mayor, Mayor Pro Tem or other Council Member to file the argument in support of the ballot measure with the deadline for the submittal of arguments for or against the measure is 5:00 p.m. Tuesday, July 9, 2013?*
- *Does the City Council want to submit the argument in support of the ballot measure as the 1) "Antioch City Council"; or 2) have each City Council Member sign the argument; or 3) task the Mayor or a Council Member with obtaining appropriate signatories?*
- *Does the City Council want to prohibit rebuttal arguments?*



The City Attorney then asked if there were any questions, and if not, then the Council would want to take public comments and then decide whether to go forward with the recommended sales tax measure and provide direction on the election procedures just discussed.

Mark Jordan, Antioch resident, spoke in support of the Sales Tax and Business Tax Ballot Measures and urged the City to combine them and place them on the November 5, 2013 ballot.

Fred Hoskins, Antioch resident, spoke in opposition to the Sales Tax Ballot Measure and suggested the City focus on determining what caused the increase in criminal activity.

Ralph Hernandez, Chair for Citizen's for Democracy, spoke in opposition to the Sales Tax Ballot Measure and suggested the City Council add revenue by renegotiating contracts with employees.

Rollie Katz, Public Employee Union Local One, stated he felt it was appropriate for the City Council to declare a fiscal emergency. He urged the City Council to adopt the resolution declaring a fiscal emergency and adopt the resolution to put the matter on the November 5, 2013 ballot.

Norma Hernandez, Antioch resident, spoke in opposition to the Sales Tax Ballot Measure and urged the City Council to add revenue by renegotiating employee contracts.

Following discussion, the City Council agreed there was a fiscal emergency and stated City employees had done their part with the concession they had made to help address the financial crisis. They also agreed that the Sales Tax Ballot Measure should be placed on the ballot to allow the community to vote on the level of service the City would provide residents.

City Attorney Nerland reiterated the deadline for submittal of arguments for and against the measure was 5:00 P.M. on July 9, 2013 at the City Clerk's Office.

Following discussion, City Attorney Nerland clarified State Law provided 14 days for the submittal of arguments and the recommendation before Council was what State Law had set forth for Initiatives and Ballot Measures.

**ORDINANCE 2068 C-S**  
**RESOLUTION NO. 2013/33**

On motion by Councilmember Agopian, seconded by Councilmember Rocha, the Council unanimously 1) Read by title only and adopted the "Ordinance of the City of Antioch Imposing a Transactions and Use Tax to be Administered by the State Board of Equalization"; and 2) Adopted the Resolution of the City Council of the City of Antioch Declaring a Fiscal Emergency; Calling for and Noticing a Municipal Election on November 5, 2013 to present to voters a Measure to Adopt a Temporary One-half Cent Transactions and Use (Sales) Tax to Fund all essential Antioch City Services including Police, Code Enforcement, and Street Repairs with the following:

- Mayor/Mayor Pro Tem authorized to file argument in support
- Authorize Mayor/Mayor Pro Tem to make decisions as to appropriate signatories
- Prohibit rebuttal arguments
- Tuesday, July 9, 2013 at 5:00 p.m. is the deadline date to file arguments for/against with the City Clerk

City Clerk Simonsen reported the City Clerk's Office would publish the consolidated notice of elections, synopsis of the measure, and notice to file arguments on June 28, 2013. He noted packets were available for parties wishing to file ballot arguments.

## **7. BUSINESS LICENSE TAX BALLOT MEASURE** *(Continued from 06/11/13)*

City Attorney Nerland presented the staff report dated June 20, 2013 recommending the City Council adopt the resolution of the City Council of the City of Antioch Declaring a Fiscal Emergency; Calling for and Noticing a Municipal Election on November 5, 2013 to present to voters a Measure to Confirm the Existing Business License Taxes and adopt a Residential Landlord Business License Tax.

Norma Hernandez, Antioch resident, spoke in opposition to the residential landlord Business License Tax Ballot Measure.

Ralph Hernandez, Chair for Citizens for Democracy, spoke in opposition to the Business License Tax Ballot Measure and he suggested the City renegotiate their employee contracts.

Theresa Karr, on behalf of the California Apartment Association, spoke in opposition to the Business License Tax Ballot Measure and requested the City Council reconsider placing the Item on the November 5, 2013 Special Election ballot. She offered to work with the City and business community to find a more equitable approach to the City's business license tax.

Mark Jordan, Antioch resident, spoke in support of the Business License Tax Ballot Measure and requested Council place the Item on the November 5, 2013 Special Election ballot to allow the residents to decide on the merits of the tax measure.

Terry Peterson, Marina Creek Apartments, reviewed his letter in opposition to the Business License Tax Ballot Measure dated June 10, 2013 and urged the City Council to vote NO on the proposed resolution.

Terry Ramus, Antioch resident, stated they had proposed the Business License Tax Ballot Measure due to the large impact rental properties had in terms of the calls for service and demands on the police force. He urged the City Council to put the Measure on the Ballot to allow residents the opportunity to vote on the Item.

Rollie Katz, Public Employee Local One, reiterated the sacrifices employees had made in the fiscal crisis. He stated people who rent properties to generate income in most incidences, are operating a business and it was appropriate to have them pay a business license tax. He urged the Council to place the Item on the ballot and provide the voters the opportunity to vote on its merits.

Dave Larson urged the City Council to vote to declare a fiscal emergency and spoke in support of the Business License Tax Ballot Measure.

Councilmember Rocha stated she was not in favor of the Business License Tax Ballot Measure as proposed, noting the City had a rental inspection program in place; which they had failed to implement successfully. She stated more time was needed for the community group and apartment management to discuss the issue and find a solution.

Councilmember Tiscareno stated that he supported the Antioch Police Department, Code Enforcement, and the Business License Tax Ballot Measure; however based on the results of the survey, he did not want to compromise the Sales Tax Ballot Measure by placing this Measure on the Ballot. He stated rental properties should pay their fair share and he urged stakeholders to continue to work on a compromise that all parties could support.

Councilmember Wilson stated she felt the Business License Tax Ballot Measure was fair and the survey only informed the Council on how they should move forward and educate the public. She noted if marketed together, she believed both ballot measures would be successful. She stated the community group had provided a great opportunity and she supported the Business License Tax Ballot Measure.

Councilmember Agopian stated the same fiscal emergency applies for both Ballot Measures and the Sales Tax Ballot Measure alone, would not provide enough money to adequately fund public safety improvements. He clarified the goal was to provide a safer community which would improve rents, home values, and appraisals. He voiced his support for the Business Tax Ballot Measure and urged the City Council to allow voters the opportunity to vote on the Item.

Mayor Harper stated that he believed the consultant and polling results which indicated the Business Tax Ballot Measure would not pass, therefore he did not want to compromise the Sales Tax Ballot Measure by placing it on the ballot. He urged the Apartment Association to work with the community group and stated he was prepared to put the Item on the ballot for 2014.

A motion was made by Councilmember Agopian and seconded by Councilmember Wilson to 1) Approve the resolution declaring a fiscal emergency, 2) Approve the ordinance to confirm the existing business license taxes and adopt a residential landlord business license, 3) Mayor/Mayor Pro Tem authorized to file argument in support, 4) Authorize Mayor/Mayor Pro Tem to make decisions as to appropriate signatories, 5) Prohibit rebuttal arguments, 6) Tuesday July 9, 2013 is

the deadline date to file arguments for/against with City Clerk tax. The motion failed by the following vote:

*Ayes: Wilson, Agopian*

*Noes: Harper, Rocha, Tiscareno*

Councilmember Rocha requested City Manager Jakel work with the Apartment Association to develop an equitable solution and if unsuccessful, she would support placing the Item on the ballot for 2014.

City Manager Jakel responded that he would reach out to the Apartment Association.

Mayor Harper urged the Apartment Association to work cooperatively with the City in the future and thanked everyone involved in bringing forward the Business License Tax Ballot Measure.

## **PUBLIC COMMENTS**

Norma Hernandez, Antioch resident, thanked the City Council for their decision on the Business License Ballot Measure and reiterated her opposition to the Sales tax Ballot Measure. She urged the City Council to be more business friendly and consult with Citizens for Democracy on a future Business License Tax Ballot Measure for rental properties.

## **STAFF COMMUNICATIONS**

City Manager Jakel announced the next Council meeting would be held on July 9, 2013 and due to a conflict in meeting schedules, and with concurrence of the City Council, the July 23, 2013 meeting would be rescheduled for July 30, 2013. Additionally, the Council would be meeting once in the month of August on August 13, 2013.

City Clerk Simonsen announced the City would be accepting applications for the Contra Costa Transportation Authority Community Advisory Committee. Deadline for submittal of applications was July 31, 2013 at 5:00 P.M. at the City Clerks Office.

## **COUNCIL COMMUNICATIONS**

Councilmember Agopian reported on his attendance at the ribbon-cutting ceremony for NRG and the Mayor's Conference.

Councilmember Tiscareno reported on his attendance at the ribbon-cutting ceremony for NRG, Relay for Life, and the Crime Prevention Commission meeting.

Councilmember Rocha wished everyone a happy 4<sup>th</sup> of July and announced a concert would be held in Waldie Plaza on July 6, 2013.

Councilmember Wilson reported on her attendance at the ribbon-cutting ceremony for NRG, Tip-A-Cop event, and her participation in a panel discussion for Netroots Nation National Conference.

Mayor Harper thanked the community for their participation and the City Council for their thoughtful consideration on matters before them this evening. He wished everyone a Happy 4<sup>th</sup> of July.

#### **ADJOURNMENT**

With no further business, Mayor Harper adjourned the meeting at 10:34 P.M. to the next regular Council meeting on July 9, 2013.

Respectfully submitted:

*Kitty Eiden*

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KITTY EIDEN, Minutes Clerk