

ANTIOCH CITY COUNCIL

Regular Meeting
7:00 P.M.

November 10, 2009
Council Chambers

6:00 P.M. - CLOSED SESSION

1. **CONFERENCE WITH LABOR NEGOTIATOR** – Employee organizations: Public Employees' Union Local No. 1, Operating Engineers Local Union No. 3, Antioch Police Officers' Association, Antioch Police Sworn Management Association, Management Group, Confidential Group, Treatment Plant Employees' Association. This Closed Session is authorized by California Government Code §54957.6.

2. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION** — Onita Tuggles v. City of Antioch et al, Northern District Court Case No. C 08-01914 JCS; 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; Riaz Patras, Maryam Patras and Mark Patras v. City of Antioch et al., Northern District Court Case No. CV-09-1891. Dearmand E., a minor, by and through Dearmand Ellis Jr., his father /legal guardian et al v. City of Antioch et al., Northern District Court Case No. C08-01709 SI. This Closed Session is authorized by California Government Code §54956.9.

Mayor Davis called the meeting to order at 7:14 P.M., and City Clerk Martin called the roll.

Present: Council Members Kalinowski, Rocha, Moore, Parsons and Mayor Davis

City Attorney Nerland reported the City Council had been in Closed Session and provided the following report: *CONFERENCE WITH LABOR NEGOTIATOR*, direction was given to staff and there was no action was taken, *CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION* direction was given to staff and there was no action was taken.

PLEDGE OF ALLEGIANCE

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

PRESENTATION

End of Summer Splash Sponsors

Councilmember Kalinowski reported the *End of Summer Splash* was held on September 19, 2009 and certificates of participation were given to the following businesses and individuals for their participation:

Allied Waste
Reynolds and Brown – Bluerock Partners
Mirant
Pacific Gas & Electric

Brian Kalinowski
Kaiser Permanente
Marty and Nancy Fernandez
Contra Costa County Deputy Sheriff's Association

Committee members, volunteers, sponsors and those who donated services or products for the event were recognized.

Councilmember Kalinowski presented proceeds from the fundraiser to Antioch Police Officer James Vincent and Chief Hyde, who accepted on behalf of Antioch Police Officer Jason Geiser.

Mr. Fernandez, Antioch resident, commended the merchants who donated to the event.

Lori Chalifoux, Prewett Park, thanked Councilmember Kalinowski and everyone who participated in the event.

Devi Lanphere stated she enjoyed participating in the event.

Mayor Davis presented a certificate recognizing Councilmember Kalinowski for organizing the event.

Volunteer In Police Service (VIPS) Academy Graduation Recognition

Lieutenant Marchoke introduced the current VIP Academy Graduates and past graduates. Mayor Davis presented pins to the new VIP members in attendance this evening.

PROCLAMATION — *Antioch Riverview Garden Club, 20th Anniversary*

Councilmember Rocha presented the proclamation proclaiming October 22, 2009 as the *20th Anniversary of the Antioch Riverview Garden Club* to Janice Coggiola, who thanked the City for the recognition.

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

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Becky Nielson, representing the Contra Costa County Antioch Library announced a *Getting Into College workshop* would be held on November 17, 2009 from 6:30- 7:30 P.M. Contact information was given. She reminded the community the Library hours would be changing as of November 19, 2009.

Walter Ruehlig, representing the Antioch Unified School District announced the Big Little Game would be held at Antioch High School at 1:00 PM on November 14, 2009. He reported a

luncheon was held today at the Antioch Historical Society and two scholarships were awarded by the Kiwanis Club. He announced the Veteran's Day parade would be held on November 11, 2009 at 11:00 AM.

Tim Forrester and Gerald Lieder invited the community to attend the Veteran's Day parade on November 11, 2009.

Devi Lanphere, Antioch Chamber of Commerce, announced they were accepting nominations for the Citizen, Business and Youth of the year.

PUBLIC COMMENTS

Angel Luevano, representing LULAC and Citizens for a Safe Antioch, presented the City Council with a model ordinance for civilian oversight of police misconduct. He urged staff to work with the City Council and community in the formation of a committee to engage in the selection process for a new Chief of Police and suggested a plan of action be agendized for the December City Council meeting.

George Van Hasselt, representing Citizens for a Safe Antioch and East County Democrats for Action, spoke in support of the ordinance presented by Mr. Luevano and urged the Police Department to hire additional African American and Latino employees.

Mayor Davis read a written comment from organizers of the Holy Eve Community Carnival which spoke to the success of the event and invited the City Council to attend a debrief on November 18, 2009 at 7:00 PM at 700 Harvest Park Blvd., Brentwood.

COUNCIL RESPONSE TO PUBLIC COMMENTS

Councilmember Moore thanked Mr. Luevano and Mr. Van Hasselt for their suggestion to form a civilian oversight committee. He urged the City Council to heed their advice and volunteered to work with Mayor Davis and staff to start the process. He reported the Holy Eve event was very successful and commended those who were involved.

Councilmember Rocha stated she felt there was a need to review the ordinance provided by Mr. Luevano and encouraged community involvement, whenever possible. She reported on the success of the Holy Eve Carnival and thanked all those involved in organizing the event.

Councilmember Kalinowski commended the Holy Eve event for their success and clarified he was committed to fundraising on behalf of the injured Police Officers and had exhausted all his resources on that event,

Councilmember Parsons congratulated all those who participated in organizing the Holy Eve event.

Mayor Davis stated he would review the information presented pertaining to the civilian oversight ordinance and discuss the issue with staff. He acknowledged Councilmember Moore's willingness to be a part of the process.

COUNCIL SUBCOMMITTEE REPORTS

Councilmember Parson reported on her attendance at the Brentwood Civic Community Center groundbreaking, Rivertown Preservation Society meeting, Crestview Park cleanup, Sports Legends and Deer Valley High/Antioch High School football game and the Big Little game luncheon.

Councilmember Moore noted he was unable to attend the Animal Services subcommittee meeting due to illness and reported on his attendance at the Antioch Sports Legends reception and Deer Valley High/Antioch High School football game.

Councilmember Rocha reported she attended the Deer Valley High/Antioch High School football game and the Antioch Sports Legends inductee luncheon event. She stated she looked forward to the upcoming Big Little game.

Mayor Davis reported the Animal Services report from the subcommittee would be coming to the City Council in January with recommendations and suggestions.

MAYOR'S COMMENTS - None

1. COUNCIL CONSENT CALENDAR

A. APPROVAL OF COUNCIL MINUTES FOR SEPTEMBER 15, 2009 and OCTOBER 27, 2009

B. APPROVAL OF COUNCIL WARRANTS

C. APPROVAL OF TREASURER'S REPORT FOR SEPTEMBER 2009

D. REJECTION OF CLAIMS

- 1. Adan Ancina 09/10-1900 (property damage).**
- 2. Phil Valenzuela 09/10-1920 (vehicle damage).**
- 3. Ronald Phelan 09/10-1894A (bodily injury).**
- 4. Debra Phelan 09/10-1984B (bodily injury).**

E. ORDINANCE No. 2035-C-S REVISING SECTION 9-5.2609, OF THE ANTIOCH MUNICIPAL CODE TO ADOPT CITYWIDE DESIGN GUIDELINES (Introduced 10/27/09)

- F. APPROVAL OF PROPOSAL AND AUTHORIZATION FOR THE CITY MANAGER TO SIGN A CONTRACT WITH RMC FOR DESIGN SERVICES FOR THE DOWNTOWN SEWER TRUNK LINE, PHASE III, (P.W. 514-S3)**
- G. CONSIDERATION OF BIDS FOR THE HILLCREST AVENUE WIDENING, PHASE II, FROM SUNSET DRIVE TO EAST 18TH STREET (P.W. 276-10)**
- H. APPROVE THE CONTRA COSTA CONSORTIUM FUNDING AGREEMENT FOR THE NEIGHBORHOOD STABILIZATION PROGRAM 2 (NSP2) FUNDS, AND AUTHORIZE THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE FUNDING AGREEMENT AND ANY OTHER RELATED DOCUMENTS**
- I. RESOLUTION NO. 2009/97 ACCEPTING COMPLETED IMPROVEMENTS FOR VIERA RANCH II SUBDIVISION, PHASE II, TRACT NO. 7219 (KB HOME SOUTH BAY, INC), PW 553-2B**

On motion by Councilmember Moore, seconded by Councilmember Rocha, the Council unanimously approved the Council Consent Calendar with the exception of Item H which was removed for further discussion.

Item H – Leonard McKines II, JPL Investment Inc./ National Asset Recovery Group stated he had provided staff with an outline of what they intend to do to improve the economic infrastructure of the cities who have had their tax revenues decreased.

Councilmember Moore commended Mr. McKines II for coming forward to assist the City. He stated once the funds were received, he would urge Mayor Davis to show a more aggressive position to insure success in using the funds to alleviate the loss in revenues and losses to families in the community.

Councilmember Parsons reported at the request of CCISCO the City had agreed to meet with them on November 24, 2009.

On motion by Councilmember Moore, seconded by Councilmember Rocha, the City Council unanimously approved item H.

COUNCIL REGULAR AGENDA

2. MASTER PLAN UPDATE REVIEW OF THE LINDSEY AND SAND CREEK BASIN FACILITIES

Prewett Park Project Manager Lonnie Karste presented the staff report dated October 26, 2009 recommending the City Council review and comment on the updated master plans of both the Lindsey and Sand Creek Basins

Gayle Donaldson, Gates and Associates, gave a brief overhead presentation of the Master Plan for the Lindsey and Sand Creek Basin Facilities.

Councilmember Moore questioned if the regional nature of the facilities would support a fee structure which partnered with adjacent cities. He requested staff provide a response as the project moved forward.

Discussion ensued regarding the placement of turf fields in the basin within Prewett Park. Project Manager Karste responded it would be unfeasible as the rubber particles sitting on top of the artificial turf would float away in the basin as well as C3 and cause decay issues.

3. RESOLUTION DENYING AN APPEAL AND UPHOLDING THE CITY ENGINEER'S DECISION REGARDING A SEWER CONNECTION FOR 115 WILBUR AVENUE

City Engineer Brandt presented the staff report dated November 2, 2009 recommending the City Council deny the appeal. In conjunction with the staff report recommendation, City Engineer Brandt explained additional alternatives to Council in order to resolve the sewer issue.

Carol Allenger, speaking on behalf of John and Lana Kacsmark, property owners of 115 Wilbur Avenue gave a brief history of the septic tank issues and the unsuccessful negotiations with the adjacent property owner to acquire the easement. She provided photos to the City Council and urged them to approve their appeal based on extenuating circumstances. She reported the design of a new septic system had been tentatively approved by the Contra Costa County Environmental Health Department and would meet the health services requirements.

Ryan Graham reported the property was currently uninhabitable and the tenants would be displaced regardless of what option was chosen by the City Council.

City Attorney Nerland stated if there was a determination by the City Council to not uphold requirements of the Municipal Code due to extenuating circumstances, the verbiage should be memorialized in the motion.

Following discussion the City Council consensus supported directing staff to inform the property owners they needed to negotiate for the easement, however if they could not reach a reasonable price for the easement then Council was willing to allow the exception for the septic tank on the property with the conditions outlined in the staff report and approval from County Health Department.

In response to Ms. Kacsmark, City Engineer Brandt offered to meet and discuss the issues with her on November 12, 2009.

On motion by Councilmember Kalinowski, seconded by Councilmember Rocha, the City Council unanimously directed the two property owners to negotiate a reasonable cost for the private sanitary sewer easement, that cost would be provided in writing to the City Manager in

two weeks who would determine whether or not he believed it was a reasonable cost, if he believed the negotiation reasonable, then the 115 Wilbur Avenue property owner would install the connection to the sanitary sewer system, if he believed the negotiation not reasonable, the 115 Wilbur Avenue property owner would move forward with the County working on the installation of a septic system that met all County criteria. The finding of the City Council was that the extenuating circumstances for the septic system were not caused but due to an unwilling seller who is the intervening property owner.

Mayor Davis declared a recess at 9:21 PM. The meeting reconvened at 9:32 PM with all Councilmembers present.

4. CHEVRON PROPERTY SPHERE OF INFLUENCE CHANGE APPLICATION

Senior Planner Morris presented the staff report dated November 5, 2009 recommending the City Council receive the report and provide direction to staff regarding the property owner initiated application to LAFCO to include the 169.9 acre Chevron property in the City of Pittsburg Sphere of Influence and remove it from the City of Antioch Sphere of Influence. (APN 089-150-013)

Following discussion the Council expressed concern for the impacts of the application as it related to the Urban Limit Line, revenues to mitigate for transportation and schools and the proposed density.

On motion by Councilmember Kalinowski, seconded by Councilmember Rocha, the City Council appointed Mayor Davis and Councilmember Parsons to the subcommittee for land use.

Nancy Fernandez expressed concern the Sphere of Influence change would have negative impacts on schools, roads, shopping and the City needed to be attentive to those issues.

Devi Lanphere, Antioch Chamber of Commerce, discussed the negative impacts should the property have a change in the sphere of influence and she encouraged the property owner to continue to work with the City of Antioch to develop a plan that fit the needs of both parties.

5. CITY EVENT POLICY

City Attorney Nerland presented the staff report dated November 3, 2009 recommending the City Council adopt the City Event Policy to describe the City's involvement in events and to establish a protocol for reviewing any future requests for City involvement in community events.

In response to Council, City Attorney Nerland suggested adding an additional category regarding using the City's name to solicit donations. She stated the policy was a living document that would be amended as events were added and removed. She noted a waiver

for the use of the City's logo could be used as a tool to insure events had the resources available, if there was a claim.

Mayor Davis suggested having a staff member and member of the Antioch Police Department who could be a point person for events to assure all issues were addressed.

Devi Lanphere, Antioch Chamber of Commerce, voiced her support for the policy and suggested expanding criteria to the standards of events to permit. She noted the East County Economic Summit was not included in the list of events. She encouraged the City Council members to support all events. She reported the Chamber of Commerce had a community calendar of events online and they were open to new information.

On motion by Councilmember Moore, seconded by Councilmember Kalinowski, the City Council adopted the City Event Policy as written with the addition of the following:

- #5 City Donation Policy - When the City's name is to be used for soliciting donations it will require City Council approval.
- The East County Economic Summit to be added to category #3

The motion carried by the following vote:

Ayes: Davis, Kalinowski, Moore, Parsons

Noes: Rocha

Mayor Davis requested City Attorney Nerland resend the memo to the City Council on the FPFC determination regarding the participation of Elected Officials in nonprofit organizations.

PUBLIC COMMENTS - None

STAFF COMMUNICATIONS

Assistant City Manager Mornick stated the City Council meeting on November 24, 2009 would be cancelled unless there was a need for a Closed Session. If it was cancelled the next meeting would be held on December 8, 2009, which would be the only meeting in December.

COUNCIL COMMUNICATIONS

Councilmember Kalinowski reported he attended the Contra Costa Crisis Center Annual Dinner which was very impressive and a worthwhile event.

Councilmember Rocha reported she attended a spaghetti feed fundraiser at the Red Caboose for Jaycee Dugard and noted letters of support were also sent.

Councilmember Parsons announced the Antioch Military Family and Friends were accepting donations with contact information provided. She reported the Mello Roos Board would be

meeting on November 30, 2009 and it would be Joel Olenchak's last meeting before he retired.

Mayor Davis stated he had discussed holding a Citywide forum in January with staff.

With no further business, Mayor Davis adjourned the meeting in memory of City Employee Nina Oshinsky, at 10:22 P.M. to the next regular Council meeting on December 8, 2009.

Respectfully Submitted

L. Jolene Martin, CMC

L. JOLENE MARTIN, CMC
City Clerk