

**CITY COUNCIL MEETING  
INCLUDING THE ANTIOCH CITY COUNCIL  
ACTING AS HOUSING SUCCESSOR  
TO THE ANTIOCH DEVELOPMENT AGENCY**

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

**August 28, 2018  
Council Chambers**

**5:30 P.M. - CLOSED SESSION**

1. **CONFERENCE WITH LABOR NEGOTIATORS** – This Closed Session with the City’s Labor Negotiators is authorized by California Government Code section 54957.6; City designated representatives: Nickie Mastay and Glenn Berkheimer; Employee organization: Treatment Plant Employees’ Association (TPEA).
2. **CONFERENCE WITH LEGAL COUNSEL ANTICIPATED LITIGATION** – Significant exposure to litigation pursuant to California Government Code Section 54956.9 (d)(2): One potential case.

Interim City Attorney Cole reported the City Council had been in Closed Session and gave the following report: **#1 CONFERENCE WITH LABOR NEGOTIATORS**, direction given to Labor Negotiators; and, **2. CONFERENCE WITH LEGAL COUNSEL ANTICIPATED LITIGATION**, direction given to City Attorney.

Mayor Wright called the meeting to order at 7:03 P.M., and City Clerk Simonsen called the roll.

Present: Council Members Wilson, Thorpe, Ogorchock and Mayor Wright  
Absent: Council Member Tiscareno

**PLEDGE OF ALLEGIANCE**

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

**ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS**

Environmental Resource Coordinator Haas-Wajdowicz presented Council with fans for participating in the Idle Free Pledge.

Director of Parks and Recreation Kaiser stated the Fall Recreation Guide had been delivered and walk-in registration was opened for all classes and programs. She announced the following events occurring at the Antioch Water Park:

- Half-price admission on Labor Day - September 3, 2018,
- Teen Pool and Patio Party - 6:00 P.M. – 8:30 P.M. September 5, 2018
- Free Fall Family Frolic - 5:00 P.M. – 7:00 P.M. on September 7, 2018
- Antioch Council of Teens - 6:00 P.M. on September 10, 2018

Councilmember Ogorchock announced a Bedford Center Block Party fundraiser would be held on September 15, 2018 from 3:00 P.M. – 5:00 P.M., at which time they would be honoring Antioch Citizen of the Year - Lifetime Achievement, Jim Boccio.

## **ANNOUNCEMENTS OF BOARD AND COMMISSION OPENINGS**

City Clerk Simonsen announced the following Board and Commission openings:

- Planning Commission: One (1) vacancy; deadline date is August 31, 2018

He announced the City was also accepting applications for the City Treasurer and application packages were available at the City Clerk's office; deadline date is August 31, 2018.

## **PUBLIC COMMENTS**

Harry Thurston, Antioch resident, announced MCE was open to enrollment until September 30, 2018 and requested Council agenda reconsideration of the second reading of the ordinance to join MCE.

Loretta Sweatt, Antioch resident, urged the City to regulate cannabis businesses to address safety and security issues. She commended Council for hiring a consultant to brand the City and for offering to meet with Fire Department personnel to address their concerns. She discussed a recent incident in which she had a positive experience with the Antioch Police Department.

## **COUNCIL SUBCOMMITTEE REPORTS – None**

## **MAYOR'S COMMENTS**

Mayor Wright announced the Grand Opening and the VIP reception at Smith's Landing were very successful events. He encouraged residents to patronize Smith's Landing as well as other local businesses. He announced a Home Run Derby was held between the Antioch and Pittsburg Police Departments as a fundraising effort for the Police Activities League Program. He thanked the Antioch Police Department for their participation.

## **PRESENTATION**

Lieutenant Mendes gave a brief overview of the Youth Police Academy. She introduced program participant Brianna Edwards and her mother Deborah who shared their appreciation of the Antioch Police Department and spoke to the benefits of the program. They encouraged youth ages 14-18 years to participate in future academies.

A video presentation of the Antioch Police Youth Academy program was shown. Lieutenant Mendes announced a Citizen's Academy would begin October 10, 2018 and applications were available online through September 17, 2018.

Council thanked Lieutenant Mendes for the presentation as well as Brianna and Deborah for speaking in support of the program.

Councilmember Ogorchock suggested the Youth Academy presentation be given at the next Barbershop Forum.

1. **CONSENT CALENDAR for City /City Council Members acting as Housing Successor to the Antioch Development Agency**
  - A. **APPROVAL OF COUNCIL MEETING MINUTES FOR JULY 24, 2018**
  - B. **APPROVAL OF COUNCIL SPECIAL MEETING MINUTES FOR JULY 31, 2018**
  - C. **APPROVAL OF COUNCIL SPECIAL MEETING MINUTES FOR AUGUST 3, 2018**
  - D. **APPROVAL OF COUNCIL SPECIAL MEETING MINUTES FOR AUGUST 7, 2018**
  - E. **APPROVAL OF COUNCIL SPECIAL MEETING MINUTES FOR AUGUST 9, 2018**
  - F. **APPROVAL OF COUNCIL MEETING MINUTES FOR AUGUST 14, 2018**
  - G. **APPROVAL OF COUNCIL SPECIAL MEETING MINUTES FOR AUGUST 21, 2018**
  - H. **APPROVAL OF COUNCIL WARRANTS**
  - I. **TREASURER'S REPORT – JULY 2018**
  - J. **RESOLUTION NO. 2018/103 ADOPT A RESOLUTION AUTHORIZING THE CITY MANAGER TO FORWARD A RESPONSE TO COUNTYWIDE GRAND JURY REPORT: "JOINT POWERS AUTHORITIES TRANSPARENCY AND ACCOUNTABILITY" (REPORT 1808)**
  - K. **RESOLUTION NO. 2018/104 FULTON YARD RECYCLING PROJECT BID AWARD**
  - L. **RESOLUTION NO. 2018/105 FIRST AMENDMENT TO THE CONSTRUCTION AGREEMENT WITH J.J.R. CONSTRUCTION, INC. FOR THE CURB RAMPS, BIKE LANE AND PEDESTRIAN IMPROVEMENTS AT VARIOUS LOCATIONS (P.W. 409-5)**
  - M. **RESOLUTION NO. 2018/106 CONSIDERATION OF BIDS FOR THE LONE TREE WAY AND GOLF COURSE ROAD PAVEMENT RESURFACING PROJECT (P.W. 392-30)**
  - N. **RESOLUTION NO. 2018/107 RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT FOR IN-TRACT AND OFF-TRACT IMPROVEMENTS FOR NELSON RANCH UNIT 3 SUBDIVISION 8851 (PW 547-3)**

O. **RESOLUTION NO. 2018/108 FOURTH AMENDMENT TO THE CONSULTANT SERVICES AGREEMENT WITH JN ENGINEERING FOR ON-CALL INSPECTION SERVICES**

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

P. **APPROVAL OF HOUSING SUCCESSOR WARRANTS**

On motion by Councilmember Ogorchock, seconded by Councilmember Thorpe, the City Council members present unanimously approved the Council Consent Calendar.

**PUBLIC HEARING**

2. **ACCESSORY DWELLING UNITS ORDINANCE AMENDMENT (Z-18-06)**

City Manager Bernal introduced Public Hearing Item #3.

Associate Planner Merideth presented the staff report dated August 28, 2018 recommending the City Council introduce the Ordinance making text amendments to Section 9-5.3805-Accessory Dwelling Units of the Zoning Ordinance to comply with new State Laws relating to Accessory Dwelling Units.

Mayor Wright opened and closed the public hearing with no members of the public requesting to speak.

Councilmember Ogorchock requested staff bring forward a rental inspection program for Council consideration during the next budget cycle.

On motion by Councilmember Thorpe, seconded by Councilmember Ogorchock, the City Council members present unanimously introduced the Ordinance making text amendments to Section 9-5.3805-Accessory Dwelling Units of the Zoning Ordinance to comply with new State Laws relating to Accessory Dwelling Units.

3. **ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH REPEALING AND REENACTING CHAPTER 19 OF TITLE 5 OF THE ANTIOCH MUNICIPAL CODE CONCERNING MESSAGE ESTABLISHMENTS**

City Manager Bernal introduced Public Hearing Item #3.

Interim City Attorney Cole presented the staff report dated August 28, 2018 recommending the City Council waive the first reading and consider the Introduction of an Ordinance of the City Council of the City of Antioch Repealing and Reenacting Chapter 19 Of Title 5 of the Antioch Municipal Code Concerning Massage Establishments. He announced there was a supplemental Ordinance provided this evening that reflected a change to the legislation limiting local agencies from conducting their own background checks.

Mayor Wright opened the public hearing.

Beverly May, Director of Governmental Affairs for the California Massage Therapy Council (CAMTC), explained that their organization was a private non-profit authorized under State law with legislative oversight. She questioned if the Ordinance allowed for the City to maintain the authority to require full criminal background checks, if owners were not certified by the California Therapy Council. She commented that she believed the Ordinance, as presented, followed best practices and would be added to their resources.

Dwayne Eubanks, Antioch resident, spoke in support of the staff recommendation to update the Ordinance and commended Councilmember Wilson's efforts to identify and stop human trafficking.

Shannon Skinner thanked Councilmember Wilson for requesting review of the massage establishment Ordinance and aligning it with California Massage Therapy Council's best practices. She stated she supported the staff recommendation to update the Ordinance.

Jackie Bruckman, Antioch resident, spoke in support of the staff recommendation to update the Ordinance and commended Councilmember Wilson's efforts to bring this item forward.

Richard Pagano, Antioch Chamber of Commerce, and Ariana Eaton, Antioch resident, spoke in support of the staff recommendation to update the Ordinance.

Mayor Wright closed the public hearing.

Councilmember Ogorchock thanked Councilmember Wilson's outreach efforts and for bringing this item forward for consideration. She questioned if any staff would be added to oversee these requests and suggested the Master Fee Schedule be amended to reflect a fee for enforcement efforts.

In response to Councilmember Wilson, Interim City Attorney Cole explained the Ordinance as currently written, stated that if a registration were revoked, a massage establishment would not be authorized to locate in the same location for a period of 18 months. He noted that if it was the pleasure of Council to extend the revocation period, his recommendation would be to amend section 5-19.18 to reflect the timeframe desired.

Mayor Wright re-opened the public hearing.

In response to Council, Beverly May, California Massage Therapy Council, stated the most common revocation period was 1-2 years. She noted that if a legitimate business came forward before that period ended, other cities typically offered a variance.

Interim City Attorney Cole explained that the City's Ordinance did not provide for a variance.

Mayor Wright closed the public hearing.

Councilmember Thorpe thanked Councilmember Wilson for taking the lead on this issue.

Mayor Wright stated he was in favor of updating the Ordinance.

Councilmember Wilson stated that she was pleased that this item was being addressed and discussed her efforts to protect the community and prevent illegitimate businesses. She requested City Manager Bernal work with neighboring cities to ensure that their Ordinance were similar to prevent pushing the problem into their communities.

On motion by Councilmember Wilson, seconded by Councilmember Ogorchock, the City Council members present unanimously waived the first reading and considered the Introduction of an Ordinance of the City Council of the City of Antioch Repealing and Reenacting Chapter 19 Of Title 5 of the Antioch Municipal Code Concerning Massage Establishments amending section 5-19.18, from 18 months to 2 years.

#### **COUNCIL REGULAR AGENDA**

#### **4. BOARD OF ADMINISTRATIVE APPEALS APPOINTMENTS FOR ONE (1) FULL MEMBER AND ONE (1) ALTERNATE MEMBER, PARTIAL-TERM VACANCIES**

Mayor Wright nominated Darrell Goodbeer to the Board of Administrative Appeals for a partial-term vacancy which would expire March 2020.

#### **RESOLUTION NO. 2018/109**

On motion by Councilmember Ogorchock, seconded by Councilmember Thorpe, the City Council members present unanimously appointed Darrell Goodbeer to the Board of Administrative Appeals for a full member, partial-term vacancy which would expire March 2020.

City Clerk Simonsen administered the Oath of Office to Darrell Goodbeer.

#### **5. CONSIDERATION OF ACTION TO BE TAKEN REGARDING "INITIATIVE TO CHANGE GENERAL PLAN DESIGNATIONS WITHIN THE SAND CREEK FOCUS AREA AND PERMANENTLY REQUIRE VOTER APPROVAL OF AMENDMENTS TO URBAN LIMIT LINE"**

City Manager Bernal introduced Regular Agenda Item #5.

Interim City Attorney Cole presented the staff report dated August 28, 2018 recommending the City Council take one of the following actions concerning the Initiative to Change General Plan Designations within the Sand Creek Focus Area and Permanently Require Voter Approval of Amendments to Urban Limit Line: A) Adopt the ordinance, without alteration; or B) Submit the ordinance, without alteration, to the voters. He reported Council and the City had received letters from attorneys representing the Zeka property, Save Mount Diablo and Richland Development. He stated a legal issue was raised regarding whether Council had the ability to adopt the Initiative since

language in the previously adopted Initiative had stated that only voters could change certain policies. He commented that his interpretation was that Council had the legal authority to adopt this Initiative, as set forth, in the California Constitution and Elections Code. In addition, he was confident that if the issue was presented to the court, they would find that the City could not take away the rights of a petitioner who had come before the legislative body to ask them to vote on the Initiative.

Seth Adams, Land Conservation Director for Save Mount Diablo and a member of the Antioch Coalition to Save Sand Creek Steering Committee, discussed the coalition's efforts to qualify their Initiative and reviewed the key components of their Initiative. He noted following their efforts, Richland began their own process that incorporated most of their Initiative; however, it allowed for an improved version of their project and restricted approximately 70 percent of the area West of Deer Valley Road, rather than all of it. He commented that both Initiatives were written to avoid the takings of property rights and they would only affect areas West of Deer Valley Road. For the record, he noted that their attorneys had submitted statements confirming the legislative history. He stated the effect on development fees for both Initiatives was indistinguishable. He requested the City Council adopt their initiative this evening.

Andrew Bassak, representing The Zeka Group, stated he submitted correspondence outlining their legal positions and noted that he disagreed with Interim City Attorney Cole's interpretation of the Elections Code. He encouraged Council to send this item to ballot to allow for more time to find a collaborative, multi-stakeholder solution. He noted they wanted to avoid litigation; however, if they were left with no options, there would be consequences.

Ted Clement, Executive Director of Save Mount Diablo and coalition member, stated that after they had engaged in the process, Richland began making changes to their project and worked on their own Initiative which resulted in two complementary Initiatives. He stated Richland had worked with the community and came to a compromise. He urged the Council to choose a balanced approach.

Loretta Sweatt, Antioch resident, spoke in favor of submitting to Initiative, without alteration, to the voters.

Matthew Zinn, Attorney for Shute Mahaly and Wienburger representing Save Mount Diablo, stated he agreed with Interim City Attorney Cole's remarks regarding Council's ability to adopt the Initiative. He noted there was no basis for an argument that the Initiative would cause an unconstitutional taking of the Zeka property. He further noted that the Initiative applied solely to the defined initiative area. He clarified that the Initiative addressed estimates of the total number of units to be developed in the area, but they were not caps and could be amended by Council, at a later time.

Tom Lawson, speaking on behalf of Sheet Metal Workers Local #104, Electricians Local #302, Sprinklers Fitters Local #483, and Plumbers and Steamfitters Local #159, voiced their support of adopting the Initiative.



Juan Pablo Galvan, Land Use Manager for Save Mount Diablo, stated they were proud to work with their supporters and organizational allies to form the Antioch Community to Save Sand Creek. He requested Council adopt their Initiative.

Hayley Currier, East Bay Regional Representative Greenbelt Alliance, Ben Foley, Michael Amorosa and Dwayne Eubanks, Antioch residents, Bruce Olsen, Delta Pedalers, Kristina Gutilla, and Beverly Knight, Antioch residents, Lesley Hunt, California Native Plant Society and Paul Schorr, Antioch resident, encouraged Council to adopt the Initiative.

Bryan Wenter, Richland Communities, Miller, Starr Regalia, stated he was in agreement with Interim City Attorney Cole's conclusions regarding the Council's authority with respect to the Initiative. He clarified that if this Initiative were adopted, it would not amend The Ranch Initiative.

Councilmember Thorpe stated he was pleased Save Mount Diablo and Greenbelt Alliance were understanding of The Ranch Initiative and promoting a balanced approach to limiting growth.

A motion was made by Councilmember Thorpe, seconded by Councilmember Wilson, to adopt the Initiative, without alteration.

Councilmember Ogorchock thanked everyone who participated in the discussions. She stated she supported all stakeholders coming together and discussing how to move forward in a positive direction. She questioned if Richland's Initiative could be challenged.

Interim City Attorney Cole explained that either Initiative could be challenged; however, a 90-day statute of limitations applied to all land use challenges.

Councilmember Wilson stated she appreciated that Save Mount Diablo and Richland representatives were able to gather input from the community and come to a compromise.

In response to Mayor Wright, Interim City Attorney Cole stated that he understood the proponents of both Initiatives agreed that their intent was to address development West of Deer Valley Road. He noted Council would have the authority to enact clarifying amendments to address this issue as well as administrative taking procedures.

Mayor Wright stated from a procedural standpoint, the Save Sand Creek Initiative clarified that they would adopt the clause in The Ranch Initiative allowing for the administrative taking procedure and ensure the potential for 4,000 homes built in Sand Creek area.

In response to Councilmember Ogorchock, Interim City Attorney Cole acknowledged that there was language in the Let Antioch Voters Decide Initiative that referenced 2,100 units; however, the proponents explained that it was not their intent to apply that number East of Deer Valley Road and a clarifying amendment would take that issue off of the table. He further noted he was prepared to bring clarifying amendments back to Council in a timely manner.



Council voted on the previous motion to adopt the Initiative/Ordinance, without alteration. The motion carried the following vote:

*Ayes: Wilson, Thorpe, Wright*

*Noes: Ogorchock*

Mayor Wright declared a recess at 9:13 P.M. The meeting reconvened at 9:29 P.M. with all Councilmembers present.

## **6. NEW WATER ACCOUNT ESTABLISHMENT PROCEDURES**

City Manager Bernal introduced Regular Agenda Item #6.

Director of Finance Merchant presented the staff report dated August 28, 2018 recommending the City Council provide direction to staff on procedures for establishing new water accounts.

Councilmember Ogorchock requested procedures allow for property managers, listing agents and their tenants to provide a copy of lease or property management agreement signed by both parties, but not notarized, to have water service turned on.

In response to Mayor Wright, Finance Director Merchant responded that she would explore options to make it easier for renters/tenants to prove occupancy in cases where there is a death or an out of state owner.

Following discussion, the Council agreed that if a property manager or real estate agent provided a signed contract with a tenant, the City would not require a notarized document from the property owner.

Councilmember Thorpe stated he believed procedures and administrative policy should be at the discretion of the Finance Director.

Finance Director Merchant responded that she would implement the procedure as directed by Council this evening and any future changes to the policy would be worked out at the staff level.

## **7. CODE ENFORCEMENT CONTRACT STAFFING**

City Manager Bernal introduced Regular Agenda Item #7.

Director of Community Development Ebbs presented the staff report dated August 28, 2018 recommending the City Council offer comment and/or direction to the City Manager regarding Code Enforcement Staffing Options.

Following discussion, Council supported augmenting the abatement team to address illegal dumping and free up Code Enforcement staff doing abatement work.

**8. RESOLUTION REMOVING THE CLASS SPECIFICATION FOR DEPUTY PUBLIC WORKS DIRECTOR II AND ASSISTANT CITY ENGINEER II, REMOVING THE SALARY RANGE, AND REMOVING THE CLASSIFICATION FROM THE MANAGEMENT (SENIOR) BARGAINING UNIT**

City Manager Bernal introduced Regular Agenda Item #8.

Administrative Services Director Mastay presented the staff report dated August 28, 2018 recommending the City Council adopt a resolution: 1) Removing the class specification for Deputy Public Works Director II and Assistant City Engineer II; and 2) Removing the Deputy Public Works Director II Classification and Assistant City Engineer II Classification Salary Range and Removing the Deputy Public Works Director II Classification and Assistant City Engineer II Classification from the Management (Senior) Bargaining Unit.

**RESOLUTION NO. 2018/110**

On motion by Councilmember Ogorchock, seconded by Councilmember Thorpe, the City Council members present unanimously adopted a resolution: 1) Removing the class specification for Deputy Public Works Director II and Assistant City Engineer II; and 2) Removing the Deputy Public Works Director II Classification and Assistant City Engineer II Classification Salary Range and Removing the Deputy Public Works Director II Classification and Assistant City Engineer II Classification from the Management (Senior) Bargaining Unit.

**9. PUBLIC WORKS DEPARTMENT – ENGINEERING DIVISION ORGANIZATIONAL STRUCTURE**

City Manager Bernal introduced Regular Agenda Item #9.

Administrative Services Director Mastay presented the staff report dated August 28, 2018 recommending the City Council adopt a resolution freezing the Assistant City Engineer Position and Approving one (1) Project Manager position and authorizing the Appropriate Budget Adjustments.

**RESOLUTION NO. 2018/111**

On motion by Councilmember Thorpe, seconded by Councilmember Ogorchock, the City Council members present unanimously adopted a resolution freezing the Assistant City Engineer Position and Approving one (1) Project Manager position and authorizing the Appropriate Budget Adjustments.

**PUBLIC COMMENTS – None**

**STAFF COMMUNICATIONS**

City Manager Bernal announced AB 2923, giving BART Land Use Authority around their stations, made it off the Assembly Floor and was headed to the Governor's office. He noted that they were concerned about the impacts of this legislation and would continue to communicate their opposition.

**COUNCIL COMMUNICATIONS**

Councilmember Wilson recognized Chief Brook's for his commitment to address Human Trafficking issues.

Councilmember Ogorchock recognized Assemblywoman Baker and Assemblyman Frasier for voting in opposition to AB 2923.

**ADJOURNMENT**

With no further business, Mayor Wright adjourned the meeting at 9:54 P.M.

Respectfully submitted:

*Kitty Eiden*  
KITTY EIDEN, Minutes Clerk