

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

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

**November 27, 2018
Council Chambers**

6:00 P.M. - CLOSED SESSION

- 1. PUBLIC EMPLOYMENT – RECRUITMENT OF CITY ATTORNEY.** This closed session is authorized pursuant to Government Code section 54957.

Interim City Attorney Cole reported the City Council had been in Closed Session and gave the following report: **#1 PUBLIC EMPLOYMENT – RECRUITMENT OF CITY ATTORNEY**, direction given to Recruiter.

Mayor Wright called the meeting to order at 7:01 P.M., and City Clerk Simonsen called the roll.

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

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Director of Community Development Kaiser announced the Winter/Spring Recreation Guide was mailed to residents and there were many programming opportunities available for the public.

Erika Roulston, Employment Specialist for Swords to Plowshares, introduced herself and discussed programming and services available for homeless Veterans in Contra Costa County.

ANNOUNCEMENTS OF BOARD AND COMMISSION OPENINGS

City Clerk Simonsen announced the following Board and Commission openings:

- Board of Administrative Appeals: One (1) alternate vacancy; deadline date is December 21, 2018

He reported applications would be available online at the City's website and at the City Clerk's office.

PUBLIC COMMENTS

Curtis Corlew, Antioch resident, expressed concern for bicyclist safety along Lone Tree Way.

Tricia Campbell, Antioch resident, expressed concern for bicyclist and pedestrian safety throughout Antioch and suggested the City restripe surface streets to improve safety.

Mark Foley, Antioch resident, Director Elect for BART, introduced himself and stated he looked forward to working with the City to improve the integration of transit systems.

Mayor Wright congratulated Mr. Foley on his successful campaign.

COUNCIL SUBCOMMITTEE REPORTS

Councilmember Thorpe announced that he would not be present for the next City Council meeting so he was taking this opportunity to express his appreciation to Councilmember Tiscareno for serving on the City Council. Speaking to Director Elect for BART Mark Foley, he encouraged him to focus on the construction of a parking garage for the Hillcrest BART station.

MAYOR'S COMMENTS

Mayor Wright discussed recent vandalism in downtown and noted that the graffiti was disturbing and did not represent Antioch. He expressed his appreciation to the residents who made the community great and encouraged them to celebrate Antioch by participating in the Holiday Delites parade and festivities on December 1, 2018.

PRESENTATION

City Branding Update by Evviva Brands, LLC, presented by David Kippen

City Manager Bernal introduced the Presentation.

Director of Economic Development Reed gave a brief history of the process and next steps in the city's branding process.

David Kippen, Evviva Brands, LLC, discussed the process moving forward for the City's branding effort. He introduced Ann Balboa to give the presentation.

Ann Balboa, President of Orange 22, Inc., discussed her professional history and gave a PowerPoint presentation of a City of Antioch Media Strategy Architecture.

Mayor Wright thanked Ms. Balboa for the presentation.

Councilmember Tiscareno discussed the importance of encouraging future development of the waterfront area.

Councilmember Ogorchock stated if Council decided to move forward she would support a higher level to get the best return on their investment.

Councilmember Wilson thanked Mr. Kippen for the presentation and discussed the possibility of marketing outside of California.

Mayor Wright stated that it was important for the community to understand that bringing businesses, increasing property value and job creation, added value to the City. He questioned when this item would be coming to Council for budget consideration.

City Manager Bernal announced that he would like to bring this item back in early January for consideration ahead of the budget so if it was Council's desire to get moving quickly they could begin the process.

1. **CONSENT CALENDAR for City /City Council Members acting as Successor Agency/Housing Successor to the Antioch Development Agency**
 - A. **APPROVAL OF COUNCIL MINUTES FOR OCTOBER 23, 2018**
 - B. **APPROVAL OF COUNCIL MINUTES FOR NOVEMBER 13, 2018**
 - C. **APPROVAL OF COUNCIL WARRANTS**
 - D. **RESOLUTION NO. 2018/147 WATER TREATMENT PLANT DISINFECTION IMPROVEMENTS (P.W. 246-29)**
 - E. **RESOLUTION NO. 2018/148 AUTHORIZE INCREASE OF THE HOURLY RATE SALARY SCHEDULE FOR EMPLOYEES WORKING IN A POLICE TRAINEE CLASSIFICATION**

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

- F. **APPROVAL OF SUCCESSOR AGENCY WARRANTS**
- G. **APPROVAL OF HOUSING SUCCESSOR WARRANTS**

On motion by Councilmember Ogorchock, seconded by Councilmember Wilson, the City Council unanimously approved the Council Consent Calendar with the exception of Item D which was removed for further discussion.

Item D – City Manager Bernal introduced Item D. Director of Public Works/City Engineer Blank presented the staff report dated November 27, 2018 recommending the City Council adopt the resolution.

Councilmember Thorpe thanked Director of Public Works/City Engineer Blank for the detailed report.

On motion by Councilmember Thorpe, seconded by Councilmember Ogorchock, the City Council unanimously approved Item D.

PUBLIC HEARING

2. RESOLUTION APPROVING OWNER PARTICIPATION (SALES TAX SHARING) AGREEMENT BETWEEN THE CITY OF ANTIOCH AND TRALEE, INC., ANTIOCH CHRYSLER JEEP DODGE, INC., AND WATERVILLE, INC. (COLLECTIVELY KNOWN AS "NOKES DEALERSHIPS") AND AUTHORIZING THE CITY MANAGER TO ENTER INTO THE AGREEMENT

City Manager Bernal introduced Public Hearing Item #2.

Director of Economic Development Reed presented the staff report dated November 27, 2018 recommending the City Council adopt a resolution authorizing the City Manager to enter into an Owner Participation Agreement between the City of Antioch and Tralee, Inc., Antioch Chrysler Jeep Dodge, Inc., and Waterville, Inc. (collectively known as "Nokes Dealerships").

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

Councilmember Tiscareno stated that he supported incentivizing businesses; however, he was concerned that this proposal included businesses that had already participated in the 2002 tax sharing agreement. He questioned what the benefit would be for the City of Antioch.

Director of Economic Development Reed responded that both tax sharing agreements were related to business development that removed blight and improved the area.

Councilmember Ogorchock discussed the previous tax sharing agreement and suggested that once construction was completed, tax sharing begin as soon as the first vehicle was sold at any of the dealerships.

Interim City Attorney Cole explained that there was a concern that if the money was filtered into the improvements to the Toyota or Nissan store, it may trigger prevailing wage requirements; so to address that issue, they were requiring a vehicle be sold from both dealerships to trigger the subsidy.

Tom Nokes explained that they could not sell a car until a dealership was completed. He reported that they were investing millions of dollars and they were the highest sales tax generator, and provided the highest paying jobs in Antioch. He clarified that there would be two pads constructed so another franchise would be added.

Councilmember Ogorchock reiterated her support for tax sharing to begin when the first vehicle was sold at any of the dealerships.

Councilmember Wilson spoke in support of bringing in a high end dealership to Antioch.

In response to Councilmember Wilson, City Manager Bernal explained that the return on the investment from the 2002 sales tax sharing agreement was significant.

Councilmember Wilson expressed concern with the City giving away \$3 million dollars in sales tax revenue.

Mayor Wright responded there was no risk on the City's behalf because there would be an \$8-12 million dollar investment from Mr. Nokes prior to him receiving a percentage of the sales tax increase.

Mr. Nokes reported there would also be approximately \$3 million dollars spent on rehabilitating the existing dealerships.

In response to Councilmember Thorpe, Mr. Nokes stated that a majority of his employees and approximately 50% of his customers were Antioch residents. He noted through advertising, they drew in a significant amount of people who spent money at other Antioch businesses and they may also draw businesses to Antioch with the elimination of a blighted area.

Councilmember Tiscareno thanked Mr. Nokes for bringing his business to Antioch. He reiterated that he could not support subsidizing businesses that had previously benefited from a tax sharing agreement.

Mayor Wright spoke in support of partnering with businesses for the betterment of the community.

A motion was made by Councilmember Ogorchock to adopt the resolution and amend the agreement to indicate that the tax sharing would occur when the first vehicle was sold at any of the Mr. Nokes' dealerships. The motion died for the lack of a second.

Speaking to the following motion, Councilmember Thorpe asked Mr. Nokes why existing businesses were included in the agreement.

Mr. Nokes explained that they would be spending approximately \$15 million to expand the business.

RESOLUTION NO. 2018/149

On motion by Councilmember Ogorchock, seconded by Mayor Wright, the City Council adopted a resolution authorizing the City Manager to enter into an Owner Participation Agreement between the City of Antioch and Tralee, Inc., Antioch Chrysler Jeep Dodge, Inc., and Waterville, Inc. (collectively known as "Nokes Dealerships"). The motion carried the following vote:

Ayes: Ogorchock, Thorpe, Wright

Noes: Wilson, Tiscareno

3. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH RECOGNIZING THE AMENDMENTS MADE TO THE GENERAL PLAN IN LIGHT OF THE ADOPTION OF “THE RANCH” AND THE “LET ANTIOCH VOTERS DECIDE” INITIATIVES

City Manager Bernal introduced Public Hearing Item #3.

City Clerk Simonsen announced the City had received three letters regarding this item and copies were made available to Council, staff and for the public in Council Chambers this evening.

Interim City Attorney Cole recommended the City Council continue this item to January 8, 2019 to allow him sufficient time to review the comments received this evening and allow the stakeholders sufficient time to review the staff report.

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

On motion by Councilmember Thorpe, seconded by Councilmember Wilson, the City Council unanimously continued the Public Hearing to January 8, 2019.

4. DOWNTOWN SPECIFIC PLAN ZONING AMENDMENT

City Manager Bernal introduced Public Hearing Item #4.

Director of Community Development Ebbs presented the staff report dated November 27, 2018 recommending the City Council introduce the Ordinance to rezone those parcels in the Downtown Specific Plan Focus Area and to modify the text accordingly.

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

On motion by Councilmember Thorpe, seconded by Councilmember Ogorchock, the City Council unanimously introduced the Ordinance amending the zoning map and zoning ordinance to conform to the Downtown Specific Plan.

COUNCIL REGULAR AGENDA

5. APPROPRIATION OF EXPENDITURES FOR ENCUMBRANCES AND PROJECT BUDGETS OUTSTANDING AS OF JUNE 30, 2018 TO THE 2018/19 FISCAL YEAR BUDGET AND OTHER FISCAL YEAR 2018/19 BUDGET AMENDMENTS

City Manager Bernal introduced Regular Agenda Item #5.

Finance Director Merchant presented the staff report dated November 27, 2018 recommending the City Council adopt the resolution appropriating expenditures for encumbrances and project budgets

outstanding to the 2018/19 fiscal year budget and approving other amendments to the 2018/19 fiscal year budget.

Councilmember Thorpe thanked staff for their hard work with the fees and providing an explanation on the City Wide Administration Fee. He stated he believed there was an opportunity to discuss funding for the city's branding efforts, as soon as possible.

Mayor Wright agreed with Councilmember Thorpe.

Finance Director Merchant explained the city's efforts to pay down the unfunded liabilities.

Councilmember Tiscareno and Mayor Wright thanked staff for the presentation and supported utilizing one-time revenue for the City's branding efforts. They requested this item come back to Council for discussion.

Councilmember Wilson thanked Finance Director Merchant for the report.

Finance Director Merchant explained the General Fund reserves and budget stabilization fund. She stated she would provide long term projections for budget study sessions.

In response to Councilmember Ogorchock, Finance Director Merchant explained that the City was pay-as-you-go on Medical After Retirements; however, with CALPERS, every two weeks a portion of the remittance paid the current benefit costs and a portion of the unfunded liability.

Councilmember Ogorchock discussed the importance of the City paying off at least one of the unfunded liabilities.

RESOLUTION NO. 2018/150

On motion by Councilmember Ogorchock, seconded by Councilmember Thorpe, the City Council adopted the resolution appropriating expenditures for encumbrances and project budgets outstanding to the 2018/19 fiscal year budget and approving other amendments to the 2018/19 fiscal year budget.

Mayor Wright directed staff to agendize discussions regarding the one-time monies with the concept of the City's marketing efforts as well as the City's one time revenue policy.

- 6. CONSIDERATION AND FINAL DETERMINATION OF BOARD OF ADMINISTRATIVE APPEALS DECISION REGARDING: ADMINISTRATIVE CITATION NO. 6037 APPEAL FILED BY SERGEI SAPOZHNIKOV FOR THE PROPERTY LOCATED AT 3224 MADRONE ST, ANTIOCH, REGARDING ANTIOCH MUNICIPAL CODE "BUSINESS LICENSE REQUIRED" [§3-1.103]**

City Manager Bernal presented the staff report dated November 27, 2018 recommending the City Council overturn the Board of Administrative Appeals decision regarding Administrative Citation No. 6037 issued to Sergei Sapozhnikov for violation of the Antioch Municipal Code.

Interim City Attorney Cole explained that his role was not to advocate as to whether the Council should affirm the Board of Appeals decision or accept staff's recommendation. He stated the Antioch Municipal Code stated that the fines were the maximum and Code Enforcement determined what they believed was appropriate and submitted it to the offending party. He noted due process had to provide the opportunity to allow someone to challenge the violation. He discussed the action taken by the Board of Administrative Appeals for this case and stated that it was his opinion that they had the authority to uphold the violation and reduce the fine. He requested Council provide direction as to whether they wanted to allow the Board of Administrative Appeals to engage in an analysis to reduce fines and if so, define mitigating circumstances that would justify a reduction. Additionally, if Council determined the fines to be excessive, he recommended that they amend the Antioch Municipal Code. He noted it was important to be consistent and this case would set precedent. He further noted property owners needed to know that the City stood firm on requiring taxes and business licenses to be paid.

Farideh Faraji, Member of the Board of Appeals, stated that she believed they had the authority to answer the appeal and questioned why the Board of Administrative Appeals existed if the City did not want them to reduce a fine. She noted they considered each case individually based on the appellant's circumstances. She stated that she had wanted to dismiss the entire \$500.00 fine because the appellant had come into compliance and he received the final citation on the last week because he had forgotten to inform the City of his address change. She further noted he paid to file the appeal, took time to come to the hearing, and she wanted to have compassion.

Ade Adeyemi, Vice Chair of the Board of Administrative Appeals, stated the Board of Administrative Appeals was formed to listen to people and be fair to citizens. He noted not everyone was treated the same way because their circumstances were different. He questioned why the appeal process existed if they were not able to make a decision or if Council was going to overturn their decisions. He noted \$250.00 in fines may be a lot of money for an appellant and the Board had been told the City wanted compliance, not the money. He urged Council to consider their decision carefully and commented that he was aware of the reason for the appeal this evening; however, the City Manager was not present during the hearing.

Finance Director Merchant reported the person filing the appeal had received information stating that they bear the burden to prove the citation was wrongfully issued. She stated the citation was issued for a valid reason and the Board of Administrative Appeals agreed; however, they had made an emotional decision that the fine was too heavy of a burden.

City Clerk Simonsen, Secretary to the Board of Administrative Appeals, clarified that the appellant received his property tax via email from the County, so he never changed his mailing address. He noted the finance department used County records to contact him; which the Board of Administrative Appeals took under consideration. He further noted the Board was very conscientiously, considered each case individually with the goal being to get people into compliance.

Sergei Sapozhnikov, submitted his telephone bill to verify that he had not contacted MuniServices on January 5, 2018. He stated his County records were not updated promptly because he believed he did not need to do so. He commented that he felt the \$800.00 in fees were not relevant.

In response to Mayor Wright, Interim City Attorney Cole clarified the decision before Council was whether to grant the appeal and go back to the \$500.00 fine or deny the appeal affirming the Board of Administrative Appeals decision to set the fine at \$250.00. He noted the policy argument was whether it was appropriate for the Board to engage in analysis and if so what were the parameters.

In response to Councilmember Tiscareno, City Manager Bernal stated that he believed the Board of Administrative Appeals operated outside the realm of what the Antioch Municipal Code gave them the authority to do, which was to approve or deny an appeal, and not reduce fines.

Interim City Attorney Cole stated that his position that the Board of Administrative Appeals ability to reduce fines was consistent with due process and the issue was the circumstances in which they should do so.

City Clerk Simonsen stated that this was not the first time a fine had been reduced.

In response to Councilmember Tiscareno, Interim City Attorney Cole stated the City had a general obligation to treat people equally and they could look at each case based on its facts; however, they needed to distill some principals. He stated the policy question was what level of responsibility Council wanted to place on people that would apply to all future decisions. He clarified that the Antioch Municipal Code stated that decisions of the Board could be appealed to the City Council by the property owner or at the request of the City Manager. He reiterated that his interpretation was that there was some flexibility to determine the amount of the fine and if staff advocated for the maximum fine, with due process, the appellant had the ability to present evidence, rebut the violation and challenge the severity of the punishment. He further noted the Board also had to have a valid reason as to why they were reducing a fine.

City Clerk Simonsen clarified that only the City Council and City Manager had the ability to appeal a decision of the Board of Administrative Appeals.

Councilmember Thorpe stated the Board of Administrative Appeals determined that the appellant was in violation and the issue was whether the fine was excessive and what circumstances led them to reduce the fine.

Farideh Faraji, Member of the Board of Appeals, responded that her reason for reducing the fine was that the appellant indicated he was uncomfortable paying the \$500.00 citation and he had paid all the fees, and fines to come into compliance. She noted in the past when she attempted to forgive the entire fine, she did not have the support of the Board, so in this case she chose to compromise. She further noted the City had a valid reason for issuing the citation; however, their job was to judge people. She stated if the Council overturned their decision, she felt it would be an insult to their service as volunteers and undermine the process.

Following discussion, the Council voiced their appreciation to all members of the Board of Administrative Appeals for volunteering to serve the community. They agreed that the appellant was in violation of the Antioch Municipal Code; however, they did not agree that there were mitigating circumstances identified to justify the reduction in the fine.

Councilmember Thorpe stated he believed the Board of Administrative Appeals had the discretion to reduce fines in instances where there were mitigating circumstances and the City could work with Interim City Attorney Cole to identify those circumstances.

Councilmember Tiscareno agreed and expressed concern that without an established policy, each decision in which the appellant did not agree would be appealed to the City Council.

Mayor Wright thanked the Board of Administrative Appeals for their service and noted having a decision overturned would not change the Council's appreciation of the difficult decisions that they made on behalf of the City.

On motion by Councilmember Ogorchock, seconded by Councilmember Thorpe, the City Council unanimously overturned the Board of Administrative Appeals decision regarding Administrative Citation No. 6037 issued to Sergei Sapozhnikov for violation of the Antioch Municipal Code.

Interim City Attorney Cole stated the discussion this evening would guide the direction of the Board of Administrative Appeals in the future.

7. TENTATIVE AGREEMENT BETWEEN THE CITY OF ANTIOCH AND THE TREATMENT PLANT EMPLOYEES ASSOCIATION FOR THE PERIOD OF OCTOBER 1, 2018 – SEPTEMBER 30, 2020

City Manager Bernal introduced Regular Agenda Item #7.

Administrative Services Director Mastay presented the staff report dated November 27, 2018 recommending the City Council adopt a resolution: 1) Approving the Tentative Agreement between the City of Antioch and the Treatment Plant Employees Association (TPEA); and 2) Authorizing the Finance Director to make any necessary adjustments to the FY2018/19 budget to implement the provisions of the Tentative Agreement.

RESOLUTION NO. 2018/151

On motion by Councilmember Tiscareno, seconded by Councilmember Ogorchock, the City Council unanimously adopted a resolution: 1) Approving the Tentative Agreement between the City of Antioch and the Treatment Plant Employees Association (TPEA); and 2) Authorizing the Finance Director to make any necessary adjustments to the FY2018/19 budget to implement the provisions of the Tentative Agreement.

PUBLIC COMMENTS – None

STAFF COMMUNICATIONS

City Manager Bernal reminded everyone that the Holiday Delites event and parade would be held on December 1, 2018.

COUNCIL COMMUNICATIONS

Councilmember Ogorchock requested staff agendize a discussion on the Ordinance regarding the Administrative Appeals fines.

Mayor Wright requested staff agendize a discussion on an open application period for cannabis businesses.

Councilmember Thorpe requested staff bring back a discussion on the formation of a Youth Task Force.

ADJOURNMENT

With no further business, Mayor Wright adjourned the meeting at 10:15 P.M.

Respectfully submitted:

Kitty Eiden
KITTY EIDEN, Minutes Clerk